IDEAS ON LIBERTY

FEE's Monthly Magazine

- Ebenezer Scrooge: In His Own Defense
- Norman Barry on The Right Morality for Capitalism
- Government-Think
- Where Have All the Marxists Gone?

DECEMBER 2002

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PERSPECTIVE

From Another America

[Editor's Note: On July 4, 1821, in honor of America's independence, Secretary of State John Quincy Adams addressed the U.S. House of Representatives. Such thoughts are sorely missed today.]

. . . And now, friends and countrymen, if the wise and learned philosophers of the elder world . . . should find their hearts disposed to enquire what has America done for the benefit of mankind?

Let our answer be this: America, with the same voice which spoke herself into existence as a nation, proclaimed to mankind the inextinguishable rights of human nature, and the only lawful foundations of government. America, in the assembly of nations, since her admission among them, has invariably, though often fruitlessly, held forth to them the hand of honest friendship, of equal freedom, of generous reciprocity.

She has uniformly spoken among them, though often to heedless and often to disdainful ears, the language of equal liberty, of equal justice, and of equal rights.

She has, in the lapse of nearly half a century, without a single exception, respected the independence of other nations while asserting and maintaining her own.

She has abstained from interference in the concerns of others, even when conflict has been for principles to which she clings, as to the last vital drop that visits the heart. She has seen that probably for centuries to come, all the contests of that Aceldama the European world, will be contests of inveterate power, and emerging right. Wherever the standard of freedom and Independence has been or shall be unfurled, there will her heart, her benedictions and her prayers be. But she goes not abroad, in search of monsters to destroy.

She is the well-wisher to the freedom and independence of all.

She is the champion and vindicator only of her own.

She will commend the general cause by the countenance of her voice, and the benignant sympathy of her example.

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She well knows that by once enlisting under other banners than her own, were they even the banners of foreign independence, she would involve herself beyond the power of extrication, in all the wars of interest and intrigue, of individual avarice, envy, and ambition, which assume the colors and usurp the standard of freedom. The fundamental maxims of her policy would insensibly change from *liberty* to *force*. . . .

She might become the dictatress of the world. She would be no longer the ruler of her own spirit. . . .

[America's] glory is not *dominion,* but *liberty.* Her march is the march of the mind. She has a spear and a shield: but the motto upon her shield is, *Freedom, Independence, Peace.* This has been her Declaration: this has been, as far as her necessary intercourse with the rest of mankind would permit, her practice. . . .

* * *

People go through personal computers almost as fast they go through toothbrushes. So what happens to all those used computers? The market has an answer, Barbara Hunter has discovered.

The standard account has it that the buffalo, which lived in perfect harmony with the Indians, were nearly driven to extinction by the European settlers. Larry Schweikart discusses new evidence that this account is upside down.

How would Scrooge have defended himself after reading Charles Dickens's *A Christmas Carol*? It took some doing, but Ted Roberts has the answer.

Disciples of Marx used to promise equal distribution of the great wealth socialism would produce. Now, disguised as environmentalists, Jim Peron writes, they promise equal distribution of poverty.

What's wrong with the "living wage" being pushed by activists at universities and elsewhere around the United States? Let Walter Block and William Barnett count the ways.

Governments have often engaged in total war, inflicting death and damage on civilian societies as well as military assets. In response to the natural moral revulsion at that warfare, a series of high-toned justifications have been coined—justifications that Joseph Stromberg finds wanting.

If American companies are fleeing to low-tax, or no-tax, jurisdictions outside the country, it stands to reason that the U.S. tax code is to blame. So why can't commentators figure that out? Scott McPherson has a case in point.

This era of business scandals raises anew the question of business morality. Just what do corporations owe anybody? Norman Barry takes on this question.

India could be rich, but it will stay poor until it dumps its socialism and the social discord it creates. Christopher Lingle shows why.

Our columnists have been hard at work. Lawrence Reed pays tribute to the man who abolished slavery in England. Doug Bandow thinks the President has been rewriting the Constitution. Stephen Davies examines competing theories for why slavery ended in the West. Donald Boudreaux scrutinizes the basic assumptions of economics. Russell Roberts explains why a road on Cape Cod doesn't get fixed. And George Leef, hearing it said that employers and workers have an inherent conflict of interest, erupts, "It Just Ain't So!"

This month's book reviewers report on volumes concerning free speech and spontaneity on the Internet, gun control, U.S. efforts at nation-building, the free market's alleged distortion of values, and new applications of legal theory.

—SHELDON RICHMAN

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IDEAS ON LIBERTY
DECEMBER 2002

Business Scandals Show Inherent Worker-Management Conflict?

It Just Ain't So!

As predictable as late-summer crabgrass, statists have taken advantage of the recent business fiascoes to argue that capitalism is not good for workers.

In the September 2 *New York Times,* Steven Greenhouse's "Update on Capitalism: What Do You Mean 'Us,' Boss?" argues that workers are questioning whether they have a common interest with the managers and owners of the firms that employ them. Greenhouse writes, "[W]orkers, with their stock options and 401(k) plans loaded with company stock, saw themselves as allied with management, not opposed to it. Pointing to the dot-com phenomenon, management theorists talked of a New Economy paradigm in which workers would link arms with executives because they were just as eager as their bosses to maximize company profits and stock prices."

During the go-go 1990s workers bought the capitalist line and "hardly seemed to worry about the need for workplace protections." They yawned and turned aside labor unions. Greenhouse writes that American unions "made little headway as they sought to lure workers by promising basic protections coveted in decades past, like health coverage and defined-benefit pensions." To many workers, Greenhouse writes, "the collective approach seemed anachronistic because they were confident that management would protect them or they could protect themselves."

Ah, but Enron, WorldCom, and so on have now shown us the light! Thousands of workers have been terminated, and their holdings of company stock are virtually worthless. Now workers are coming to see that they were just exploitable pawns all along. Greenhouse cites a recent poll finding that 66 percent of workers say that they trust their employers very little and informs us that unnamed "labor experts" say that the numbers "suggest that the nation may have reached a watershed in which workers conclude that they need collective protections to safeguard them from predatory executives and economic downturns." All that is music to the ears of the leaders of the dwindling AFL-CIO and politicians who show their "concern" by introducing legislation that will give us those "collective protections."

The timing of the article, published on Labor Day, was hardly coincidental. Workers of the world, unite!

Before we get too carried away with this thesis that workers and owners/managers are antagonists and that the world of the free market is just too dangerous, let's make a few observations.

First, businesses fail all the time. Enron gets lots of publicity from hand-wringing politicians, union officials, and writers in search of a story, but it's no different from the failures of furniture stores, ethnic restaurants, golf resorts, and other enterprises. If consumers don't like the product enough to give the business a stream of revenues sufficient to cover its costs, it will eventually go bankrupt. Enron's management tried to pull a lot of stunts to hide the fact that its costs greatly exceeded its revenues, but they're entirely irrelevant to the fundamental economic truth here. There is no "protection" against loss of employment in a free society, in which consumers are free to spend their money where they want and not to spend it where they don't. Unions can't protect jobs because they can't dictate how people spend their money. As evidence, look at the shrinkage in the ranks of the United Steelworkers. (Government, of course, can force taxpayers

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to subsidize inefficient flops like Amtrak, but every time it does so, it wastes resources and reduces our freedom.) The risk that consumers won't buy what you have to sell is unavoidable as long as you want to remain in the market economy.

Saving as a Precaution

That risk, however, can be guarded against. People save as a precaution against the possibility of unemployment, and would no doubt save more if it weren't for the promise of government unemployment benefits and Social Security. Furthermore, finding new work isn't terribly hard for most workers. There are businesses designed to help people save and invest money, and to help them find employment. A few thousand pink slips at Enron and WorldCom is not a national crisis.

Second, where are there any grounds for concluding that the interests of workers do not coincide with the interests of the owners and managers? True, in the case of Enron, Tyco, and perhaps some others, there is a strong element of looting by the top executives. But those are exceptional—and prosecutable—cases. How do they prove anything about the general relationship between labor and management? They don't.

Businesses have to compete for workers, and when they find good ones, they don't want to lose them. Workers, whether factory hands or top executives, are paid based on what they add to profits and the potential loss of profits should they decide to leave for a better offer. Good old self-interest works for the benefit of both owners and employees. Success is good for both, and failure is bad for both. Headline-grabbing business failures don't disprove that.

Third, Greenhouse and the union advocates readily advance the notion that workers can't protect themselves and must be given some kind of collective security package. That doesn't follow either. With regard to retirement planning, workers do not have to rely on the stock of the company they happen to work for. In fact, very few do. Although the part of their retirement plans that was invested in Enron stock has been wiped out, most of the Enron employees diversified into other stocks. People do not need unions or politicians to tell them that diversification is wise; nor do we need them to tell us how best to invest our money.

What about health care? Ideally, health insurance and health care would be divorced from the employment relationship. (That employers usually provide health insurance as a benefit is just an accident of history, dating back to the circumvention of wage and price controls during World War II.) Workers properly would shop around for the health insurance that was best for them, just as they shop for the best auto insurance. They do not need any "collective protection" here either, and trying to impose it would undoubtedly make almost everyone worse off by forcing a collective choice that few would negotiate for themselves.

Just as old-time cure-all elixir hucksters depended on the gullibility of people to make sales, so do the modern-day hucksters of labor unions and political solutions to the real and imagined crises of modern life depend on the gullibility of people to peddle their coercive, collectivist elixirs. A few highly publicized business crashes have made many workers nervous, but they ought to turn a deaf ear to those who hawk security at the price of freedom.

—George C. Leef
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Government-Think

by Barbara Hunter

For as long as there have been governments, it has been a truism that whatever private individuals or companies, engaging in free exchange of goods and services, see as opportunities, government sees as problems. There is nothing terribly surprising about this, considering that private action is geared to locate ways for betterment, whereas government action is geared to perpetuate itself and its necessity. From time to time an example appears that bears this out perfectly.

The case in point could be called, What shall we do with our old computers? After all, neither individuals nor organizations find it beneficial to waste space holding on to computers, monitors, laptops, or printers that no longer meet their needs. Certainly, they don't want to keep them if they are broken or so far behind in technology that they are truly useless. Not surprisingly, several companies have gone into business for the purpose of taking computers off people's hands (for a fee) and then determining the best use for them. (Note that this involves money for a service, not for a product. The computer goes to the recycling company, but so does the money.) If the computer can be refurbished and resold, the owner gets a rebate, the amount of which depends on whatever new value the item acquires as a result of the resale. Sometimes new hardware and/or new software make the computer immediately usable; other times parts must be salvaged from two or more old computers to produce one usable one. Obviously, this has a direct effect on the rebate amounts.

In this way, that wonderful, though much maligned, "trickle-down" effect benefits people who now gain value from a product they could not otherwise afford. Shouldn't this wise use of products, in the true spirit of "recycling," be welcomed by all? Hardly.

Enter government. Already about half the states have appropriated funds, mostly for "study committees" (what else?) to determine what to do about the "problem" of used computers. Their rationale is that these terrible devices contain "hazardous materials," which have been itemized as lead, mercury, and polyvinyl chloride (PVC) plastic. Note that there is no reference to the amounts of these supposedly hazardous components, nor is there even a shred of concern about what other objects contain some or all of these fearsome ingredients, for example, kitchen appliances, laundry equipment, and industrial machinery. No, that would require thinking, and government-think rarely entails genuine thinking. Most attractive is the aura of mystery surrounding computers, enhanced by the (totally unproven) claims of human harm from their use. Thus legislatures consider themselves justified in seeing this as a problem and

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attempting to solve that alleged problem by appointing study committees, which invariably will confirm that there is indeed a problem and that even more of the public's money must be spent to solve it.

Never fear that the federal government will fail to perceive that this problem is also in its domain. Already, a congressman (Rep. Mike Thompson of California) has introduced legislation neatly putting the cart before the horse and imposing a solution to the ostensible problem. This legislation would impose a ten-dollar fee (up front at the time of purchase, of course) on every computer and monitor sold "to help pay for recycling centers." Pure government-think if there ever was. Obviously, these public "recycling centers" would do what all recycling centers do: produce neatly organized junk so the public needn't be afraid of old computers.

Nowhere is there any reference to some sort of government bookkeeping procedure to determine how much "help" these many ten-dollar fees would produce. Never in history has there been any such action by government entities. The "fees" referred to would simply get lost in general revenue, and Congress would authorize (or some agency would take it upon itself to spend) whatever it considers appropriate for these recycling centers, inevitably with the expenditure of ever-higher sums.

Helping the Less Fortunate

Government-think, however, can take even more egregious forms. The president of one of the high-tech recycling firms has confirmed that many of the refurbished computers "are often put to productive use in other countries." He further states, "If they [those in other countries] weren't able to have access to that much less expensive technology, they wouldn't have any." Now, shouldn't the good congressman cheer this fine procedure for benefiting the less fortunate abroad? Certainly not. Instead he has opined that in doing so, "the U.S. is exporting its environmental problems."

Hard to believe? Not in the land of government-think. □

Fool's Errands

America's Recent Encounters with Nation Building

By Gary Dempsey, with Roger Fontaine

"America's liberal imperialists will not like *Fool's Errands* at all because this excellent book shows that their four main attempts at nation building in the 1990s—Bosnia, Haiti, Kosovo, and Somalia—were all dismal failures."—*John J. Mearsheimer*, University of Chicago

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Buffaloed: The Myth and Reality of Bison in America

by Larry Schweikart

Almost every schoolchild is taught that prior to the arrival of whites, Plains Indians lived in perfect harmony with nature as the ultimate socialist ecologists. According to the common tale, Indians had little private property—and certainly were not burdened by capitalism—and they hunted and killed only what they needed to live. Then Europeans arrived, and using the techniques of industrialized hunting, nearly exterminated the North American bison, also known as the buffalo. In the late 1800s, white hunters, such as William Frederick "Buffalo Bill" Cody, slaughtered the animals to meet market demand until the bison were nearly gone. Then, at just the right moment, government stepped in to save the buffalo by sealing them off at Yellowstone National Park.

It's a convenient and easily told story, but it has left students, well, buffaloed. It has certainly caused the story of the buffalo to be misunderstood. Several new scholarly studies have emerged, though, and they universally provide a much more complex picture of the Great Plains in the late 1800s. Among other revisions, the works address the nature of Indian hunting, white motivations for killing the bison, and nonhuman factors affecting herd sizes. Most of all, though, they show that the ultimate savior of the buffalo was not the government, but the free market. Here, I will briefly review the findings insofar as they throw new light on the economics of the Indians both before and after the arrival of whites. I will look then at their assessment of the hunting efficiency of both Indians and whites. Finally, we will examine how private market forces, not government action, revived the buffalo herds.

Myth of the Ecological Indian

It is doubtful any of the authors intended their research to have political overtones per se. Dan Flores, a professor of history at Texas Tech University before moving to the University of Montana at Missoula; Shepard Krech III, an anthropology professor at Brown University; and Andrew C. Isenberg, a professor of history at Princeton, all have produced challenging new studies about Indians, whites, and the Plains environment. Most of all, they all have offered significant revisions of the views that Americans have held regarding the destruction of the buffalo.[1]

The first myth they explode is that of the "natural" Indian who lived in harmony with nature—unlike the greedy Europeans who conquered the continent. Instead, the authors unveil evidence of communal economies that engaged in large-scale burning to "clear" forests and also to kill game. "Controlled" burns by the Indians often got out of control, and without modern fire-

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fighting equipment, flashed through forests, destroying everything in their path. Deer, beaver, and birds of all sorts were already on a trajectory to extinction in some areas, because over and above the hunting done by Indians, natural predators and disasters thinned herds. Isenberg wonders whether the North American bison herd was already falling below replacement levels *before* white hunters arrived.

Capitalism comes in for a huge share of the blame. Both Krech and Isenberg attribute changes in Native American farming/gathering lifestyles to increased trade with Europeans. Indians (reluctantly, in Isenberg's view) became hunters, which transformed their entire society, making them more dependent on nature than ever before. Tribes had to follow herds and become even more wasteful, as the buffalo meat was their main source of food and the hides (and beaver pelts) their only product for trade.

Notions that "pre-capitalist" Indians lived in harmony with nature—especially the buffalo—are thoroughly exploded in the new works by these anthropologists and historians. Indians used the tools at their disposal, mostly fire and cunning, to hunt buffalo. "Box burning," a common tactic, involved setting simultaneous fires on all four sides of a herd. The French word "Brulé," or "burnt," referred to the Sicangu ("burnt thigh") Sioux division whose survivors of hunting fires were burned on the legs. Charles McKenzie, traveling the plains in 1804, observed entire herds charred from Indian fires. Another favored hunting tactic, the "buffalo jump," involved luring a herd after an Indian dressed in a buffalo skin. At a full run, the brave led the herd to a cliff, where he leapt to a small ledge while the buffalo careened over the edge to their deaths. Either of these methods led to horrible waste and inefficient use of resources.

No Property Rights

The ultimate problem, however, was lack of property rights. One trader observed that the moving habits of the Plains Indians "prevent the accumulation of much baggage. . . . Thus personal property cannot be acquired to any amount."[2] Lacking the ability to store a surplus, the Indians acquired none. While their communal heritage encouraged them to band together in hard times, the lack of surplus meat or robes meant that they only shared scarcity. A powerful myth emerged—one repeated in many textbooks—that the Indians "used every part of the buffalo," implying that the Plains Indians used *all* the buffalo they killed. That was not the case. Estimates made in the 1850s suggest that Indians harvested about 450,000 animals a year, and some think the figure was far higher than that. After stripping the best meat and some useful parts, the Indians left the remainder to rot. The stench permeated the prairie for miles, and many a pioneer came across acres of bones from buffalo killed by the Indians before they moved on.

Isenberg, for one, doubts whether Indian slaughter alone would have made the buffalo extinct, but when combined with natural factors—wolf predation, fire, and drought—the Indians' annual harvest probably exceeded the ability of the herds to maintain themselves. More important, as Isenberg points out, "Even had they recognized a decline, the inherent instability of the nomadic societies made it difficult always to enforce the mandates against waste."[3] Equally important, many Indian religions held that nature provided an inexhaustible supply, and thus it was impossible to "overhunt." Put another way, without private property rights, the bison were already doomed before the white man arrived.

Westward expansion of whites and trade between whites and Indians produced two significant changes, one more destructive than the other. The first—already mentioned—was that Indians shifted from a farming to a nomadic, hunting lifestyle. More important, as American settlers pushed west, both the Indians and the buffalo constituted an impediment to further expansion. A thriving buffalo-hide trade already existed with Indian hunters, but by the 1860s, a new wave of white hunters, using modern firearms and industrial processing methods vastly expanded the slaugh-

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ter of the bison. This had three purposes: (1) it fed railroad workers and some western markets; (2) it continued to provide robes and hides to tanneries; and (3) it provided a way to get rid of the Indian by eliminating his food supply.

In the 1890s, the leather industry in the United States had increased to an $8.6 million business, and many of the hides came from buffalo. Buffalo bones, used for fertilizer and pigments, filled 5,000 boxcars annually. Tales of the deadly effectiveness of the Plains hunters, such as Buffalo Bill, are renowned. Working from a "stand," in which lead buffalo are shot at long range so as not to panic the herd, a good hunter could kill 10–50 animals and skin them in a single morning's work. The hides revealed the final tally, wherein a single warehouse would hold 60,000–80,000 hides, and the number of hides shipped on the Union Pacific alone exceeded 1.3 million between 1872 and 1874. "You can hear guns popping all over the country," said one Texan.

Washington fostered policies that worked counter to each other. One bill made it unlawful for non-Indians to kill buffalo, in an effort to restore buffalo hunting to the Indians. Other federal policies, though, already viewed elimination of the bison as a key element in removing the food source for the Plains Indians, much the way Sherman sacked Georgia. Ranchers were already claiming that cattle made more efficient use of the plains than did buffalo. Where the Indians thought the supply of buffalo was endless, whites recognized it was finite and intended to eliminate it as a means to eliminate the Indians.

The Market Saves the Buffalo

There is no question that market forces nearly marked the bison for extinction sooner than had buffalo been left to the Indians alone. As early as 1832, artist George Catlin warned that the bison was being eradicated. Forty years later, Yellowstone National Park provided the only public refuge for bison outside city zoos and held a large remnant herd. However, Isenberg's conclusion upsets the entire apple cart of prior assumptions when he writes, "This remnant herd and other scattered survivors might eventually have perished as well had it not been for the efforts of a handful of Americans and Canadians. These advocates of preservation *were primarily Western ranchers who speculated that ownership of the few remaining bison could be profitable* and elite Easterners possessed of a nostalgic urge to recreate . . . the frontier" (emphasis added).[4]

Credit goes to the private sector, through formation of the American Bison Society in 1905, virtually all of whose members were from New York, New Jersey, Pennsylvania, or New England. A few sought to preserve the buffalo. Some sought to develop cattle/bison hybrids called "beefalo," but others, including banker J. P. Morgan, focused on establishing open-range reserves where "the buffalo roam." He funded a 20,000-acre tract in Colorado and stocked it with buffalo.

It was the Wild West Show, popularized by none other than Buffalo Bill, that took private support for the buffalo to the next level. His shows featured "buffalo hunts" with Indians and whites "hunting" a herd released into the arena. Touring the United States and Europe from the early 1880s until 1913, Cody introduced the buffalo to millions of people who had never seen one. More than a few contributed to the American Bison Society or in other ways worked to preserve the buffalo.

Meanwhile, western ranchers such as Charles Goodnight, who captured buffalo calves in 1878, determined that there might be great value in private bison herds. As a result, "many of the bison that eventually populated *government* preserves descended from the herd of two Montana ranchers" (emphasis added).[5] Profit, as Isenberg notes, was the primary motivation for these and other keepers of the bison, just as it was for hide hunters a decade earlier. One rancher advertised, "We Supply Buffalo for Zoos, Parks, Circuses, and Barbecues."

Private herds had value, and thus were well guarded. But the public parks were

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"open hunting" for poachers, despite repeated efforts to raise fines for killing bison at Yellowstone. The public parks continually had difficulty keeping hunters out. The private reserves thrived on hunting.

But the beauty of the private market is that it also permits people to engage in charity, and it is from humanitarian motives that a second preservationist group appeared, the Society for the Prevention of Cruelty to Animals (SPCA). Unlike modern reformers, the nineteenth-century humanitarians did not immediately plead for help from government. Quite the contrary, the SPCA tried to inform the public, explaining both the destruction of bison and the need to maintain and replenish the herds. The Society took great pleasure when a son of Theodore Roosevelt, Kermit, published his refusal to kill any buffalo at a time when the buffalo were nearly extinct.

Together, the American Bison Society and the SPCA—one to maintain a symbol of masculinity and frontier ruggedness, the other out of a desire to "feminize" Americans toward its humane view—nevertheless worked together to allow market forces to operate. The American Bison Society purchased buffalo directly, but referred customers to the ranchers. One Michigan game reserve was established by purchasing the private herd of Joshua Hill. Virtually all of the Yellowstone herd rejuvenated in 1902 under the new game warden, "Buffalo" Jones, came from two private herds.

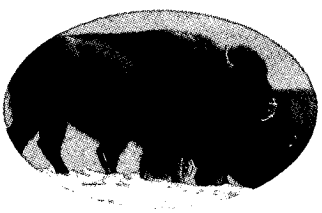
As a government employee, Jones, credited with helping to restore the herds, did so to a large extent by using the private sector. He realized that his "product," besides scenery, was the buffalo herd. He located his bison corrals near the Mammoth Hot Springs, which was the park's busiest entrance, allowing a private souvenir shop to be set up. After he resigned, the new management still kept herds near the Hot Springs.

Other private enterprises saw the value of promoting the buffalo. The Northern Pacific Railroad and hoteliers especially perceived that bison equaled profits. The Northern Pacific promoted Yellowstone heavily, emphasizing that only its line took visitors to the park, and by the twentieth century, sport hunters created such a demand for buffalo that it became a small industry in itself. In the 1960s, public parks finally acceded to hunting, allowing private hunters to pay $200 each to shoot a buffalo.

The American Bison Society disappeared in the mid-1920s, but it had accomplished its mission, largely without government interference. Yellowstone aside, the private sector had saved the buffalo. By the 1990s, more than 90 percent of the bison in North America were in private hands, rather than publicly owned. As Isenberg notes, they were "preserved not for their iconic significance in the interest of biological diversity but simply raised to be slaughtered for their meat."[6]

Without question, market forces had contributed to the near-extinction of the bison, along with the political objective of destroying the Indians by eliminating their food source. But that is well known. What is almost never mentioned is that it was market forces—ranchers, hunters, tourism developers, railroaders, and philanthropists—that ultimately saved the buffalo as well. □

1. Dan Flores, "Bison Ecology and Bison Diplomacy: The Southern Plains from 1800–1850," in Helen Wheatley, ed., *Agriculture, Resource Exploitation, and Environmental Change* (Brookfield, Vt.: Variorum, 1997), pp. 47–68; Shepard Krech III, *The Ecological Indian: Myth and History* (New York: Norton, 1999); Andrew C. Isenberg, *The Destruction of the Bison* (New York: Cambridge, 2000). Here I will, for sake of convenience, rely mostly on Isenberg, who has the study most focused on bison and yet is broader than Flores's research.
2. Quoted in Isenberg, p. 79.
3. Ibid., p. 84.
4. Ibid., p. 164.
5. Ibid., p. 176.
6. Ibid., p. 189.



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IDEAS ON LIBERTY
DECEMBER 2002

An Inspiration for All Time

Most lovers of liberty want to be optimists. All that has to happen for liberty to be widely embraced is for people to open their minds and shed the baggage of the socialist impulse. Simple enough, right? No. It isn't simple at all, and that's why too many lovers of liberty fall into the pessimism trap.

If winning the day for liberty were simple, we'd have won overwhelmingly—and permanently—long ago. Alas, it takes work. It takes time. It takes commitment. It entails setbacks along the way. I've always believed that in spite of all that it has to offer, liberty enters the intellectual fray with a substantial disadvantage: Liberty demands risk and restraint today in exchange for a better life a little later. Socialism and the endless interventionist schemes that push society in that direction appeal far more to thoughtless but immediate self-gratification.

Think about it. Mere slogans and bumper stickers carry instant weight with the naturally large numbers of people who want something now and think they should have it. Our side has to take the time to explain, to invoke reason, logic, history, and economics. We will always have to work harder to achieve liberty than the other side has to work to achieve the redistributive state, because liberty demands that we live like mature adults who respect one another.

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If you know many advocates of liberty these days, you know what I mean when I say there's plenty of pessimism to go around. I hear it all the time, and it goes something like this: "The schools and universities are havens of statist thinking. Too many of the bad guys win elections. Government continues to grow in spite of its failings. What have we got to show for all the seeds of liberty we've planted? Maybe we should just throw in the towel, have a good time, and let the chips fall where they may."

Such pessimism is a crippling mental handicap. It's a self-fulfilling, surefire prescription for losing. If you think the cause is lost, that's the way you'll behave and you'll drag others down with you. If you believe in liberty but can't muster an optimistic attitude, then find inspiration or get out of the way.

Whenever I sense a whiff of pessimism in my thinking, I shake it in a hurry by recalling the lives and contributions of great individuals who overcame seemingly insurmountable obstacles to eventually prevail. I can hardly recommend a more fitting example to make my point here than William Wilberforce, the man from Yorkshire who more than any other single individual was responsible for ending slavery throughout the British empire.

Born in 1759, Wilberforce never had the physical presence one would hope to possess in a fight. Boswell called him a "shrimp." Thin and short, Wilberforce compensated with a powerful vision, an appealing eloquence, and an indomitable will.

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Elected to Parliament in 1780 at the age of 21, Wilberforce spoke out against the war with America in no uncertain terms, labeling it "cruel, bloody and impractical." But he drifted from issue to issue without a central focus until a conversion to Christianity sparked what would be a lifelong calling. Revolted by the hideous barbarity of the slave trade then prevalent in the world, he determined in October 1787 to work for its abolition.

A Tall Order

Abolitionism was a tall order in the late 1700s. Viewed widely at the time as integral to British naval and commercial success, slavery was big business. It enjoyed broad political support, as well as widespread (though essentially racist) intellectual justification. For 75 years before Wilberforce set about to end the trade in slaves, and ultimately slavery itself, Britain enjoyed the sole right by treaty to supply Spanish colonies with captured Africans. The trade was lucrative for British slavers but savagely merciless for its millions of victims.

Wilberforce labored relentlessly for his cause, forming and assisting organizations to spread the word about the inhumanity of one man's owning another. "Our motto must continue to be perseverance," he once told followers. And what a model of perseverance he was! He endured and overcame just about every obstacle imaginable, including ill health, derision from his colleagues, and defeats almost too numerous to count.

He rose in the House of Commons to give his first abolition speech in 1789, not knowing that it would take another 18 years before the slave trade would be ended by law. Every year he would introduce an abolition measure, and every year it would go nowhere. At least once, some of his own allies deserted him because the opposition gave them free tickets to attend the theatre during a crucial vote. The war with France that began in the 1790s often put the slavery issue on the back burner. A bloody slave rebellion in the Caribbean seemed to give ammunition to the other side. Wilberforce was often ridiculed and condemned as a traitorous rabble-rouser. He had reason to fear for his life.

Once, in 1805 after yet another defeat in Parliament, Wilberforce was advised by a clerk of the Commons to give up the fight. He replied with the air of undying optimism that had come to characterize his stance on the issue: "I do expect to carry it."

Indeed, what seemed once to be an impossible dream became reality in 1807. Abolition of the slave trade won Parliament's overwhelming approval. Biographer David J. Vaughan reports that "as the attorney general, Sir Samuel Romilly, stood and praised the perseverance of Wilberforce, the House rose to its feet and broke out in cheers. Wilberforce was so overcome with emotion that he sat head in hand, tears streaming down his face." Boswell's shrimp had become a whale.

The trade in slaves was officially over, but ending slavery itself remained the ultimate prize. To bring it about, Wilberforce worked for another 26 years, even after he left behind nearly a quarter-century of service in Parliament in 1825. The great day finally came on July 26, 1833, when Britain enacted a peaceful emancipation (with compensation to slaveholders) and became the world's first major nation to unshackle an entire race within its jurisdiction. Hailed as the hero who made it possible, Wilberforce died three days later.

The lessons of Wilberforce's life reduce to this: A worthy goal should always inspire. Don't let any setback slow you up. Maintain an optimism worthy of the goal itself, and do all within your character and power to rally others to the cause. How on earth could men and women of good conscience ever do otherwise? □

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Ebenezer Scrooge: In His Own Defense

by Ted Roberts

Scrooge speaks: To hell with writers. They're all the same. They carry a simple formula in their empty minds; mix one small fact with a headful of dreams, and Eureka! A best seller. Give a writer a drop of truth and he'll make a Thames, thereby providing him a monthly royalty check, good roast beef, and pudding. Not to mention a long beaver fur coat with a deep pocket for a fat wallet. And his pals say, "Hey, Charley Dickens, what a beyuuuutiful coat. Hear your book's outselling 5-penny mulled cider!"

Nobody says, "Was it true what you wrote about old man Scrooge? Did he really treat Cratchit, the clark, like a gutter dog?"

One fact, that Dickens fella had. Only one. Yes sir, I do hate Christmas. Always have. Still do. But now I hide it under a hardy ho, ho, ho and an armload full of presents. I hated Christmas because it was only a single day. I hated it like Londoners detest May because they get three glorious days of blazing blue skies and sunshine, then 362 days of fog as gray as a shroud. I hated Christmas like a sick child hates the rare day he feels good enough to run and play with his healthy pals. It's a painful day because it makes the other 364 so bleak. Truth be known; scratch a scowling cynic and you'll find a glowing idealist. Shouldn't the student of human behavior who wrote about Mr. Micawber understand that? (The literary gossips tell me that Micawber was his own papa. He did a damn sight better by him than he did by me.)

So, big deal! Christmas brought out all the aches and pains of disappointment. That's the snippet of truth that Mr. Dickens built his case upon. He interviewed me, you know, before he did that slanderous novel. It did not go well.

He tells me he's doing a book on "the gray cloud of poverty that darkens our fair city of London." And he wants my insights because I'm a merchant banker—one of the hoity-toity aristocrats of the financial world, he says, that stands on the shoulders of the indigent class.

I ask him to look sharply around my "aristocratic" offices and notice that they ain't exactly furnished like Buckingham Palace. And my suit—it comes off a cart on Poorfellow's Road, not a Savile Row emporium. He doesn't say much to this, just keeps on jawboning about poverty—about us counting-house merchants putting folks out of work. I try to explain that bringing corn and other commodities into this island of limited arable land keeps down the prices. I mean if the tariff applied to filigree-gilded coaches imported from Vienna—well, at least only a few plutocrats would bear the burden. But to tax wheat and corn!! Every Englishman with a mouth and an appetite pays his price at the supper table. Go talk to the politicians that support the corn laws, I

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tell him. Then, just to lighten the air a bit, I gives him a cup of tea with a big spoonful of sugar. But he asks for cream and a cinnamon stick. I tell him that people in Hell cry for cold lemonade and I ain't got any cinnamon or cream. That's where he got the Miser Scrooge idea.

And he's back to the barricades. "But your financing of corn imports is putting our farm lads on the dole."

"Could be," I respond. "But for every man on the dole—10,000 other men, women and children can afford corn pudding, corn mush, cornbread, and corn soup. And a good smoke outa a corn cob pipe after their meal."

This quiets him down for a minute. He sips his creamless tea before he looks up and says, "Most assuredly, but my mind vividly portrays those poor idle farm lads tromping the streets of London as plain to see as Big Ben, and 100,000 jaws chewing high-priced corn just doesn't move a reader's heart. Hard to visualize, you know."

Sure, I'm thinking. It's just like that French fellow, Bastiat, said: The seen and the unseen. He hated those corn laws like he hated the greedy grabbing hands of the tax collector.

Three Accountants

Then I tell my interviewer I really haven't the time for a lengthy discussion because I expect, any minute now, three accounting gentlemen to talk about my unpaid invoices of last Christmas, payments for this Christmas, and the billing of Christmas to come. Sound familiar? You got it. Three accountants turn into three angels. What an imagination, crowed his fellow journalists. What an impudent liar, I say.

Still, he sips his tea and asks me a lot of silly questions about Jacob Marley, my old partner, you know. I innocently replied that I liked old Marley and once in a while when I signed an especially juicy deal I thought about him. He looked up at that, then dropped his eyes to his notebook and wrote something.

"Ever see him?" says ghoulish Charley.

"See him? He's dead as the door handle on my front door."

"Quite," says Dickens. "But sometimes at midnight, when the wind is howling like a soul in perdition and the fire in the grate burns low like the coals of hell, don't you see a luminous shape in your bedroom?"

"Absolutely not," I reply. "He's as dead and gone as yesterday's sunset."

Then he wants to talk about Cratchit and his boy—the one who was born a cripple. Asks me a lot of questions about Cratchit's pay, which had always been handsome. Sure, there's a thousand clarks in London, but none like Bob Cratchit. I'd be a fool to skimp on his wages.

He scribbles something more in his notebook. Then he's off. Next thing I know that silly book about ghosts and angels is making the rounds. "God bless us every one." Isn't that the phrase he put in the mouth of Cratchit's kid? I'll agree with that. And may we all have a Merry Christmas on happy, full stomachs—thanks to inexpensive, imported corn. The Dickens with Dickens. □

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Where Have All the Marxists Gone?

by Jim Peron

From the early days of Marxism until its collapse, the Left pretended that socialist central planning would lead to greater productivity and advanced technological progress. No one seriously entertains that illusion any more. So how is it that so many Marxist ideas still hold such influence? Certainly the modern "Green" movement is filled with Marxists of one stripe or another.

While Marx was pro-science and pro-technology, his Green stepchildren deride such ideas. Instead they have announced that technology and science are, in fact, evil. They cling to the egalitarianism of Marx, but abandon any support for science and technology. Dismayed because socialism couldn't produce the goods, these socialists suddenly discovered that producing goods was an evil that needed to be avoided. This was a psychological coup. In one fell swoop the failure of socialism became its most endearing feature. Strip socialism of its pro-science, pro-technology viewpoint and you are left with today's Green movement.

This is made clear in "The Jo'burg Memo," a report produced for the World Summit on Sustainable Development in Johannesburg by the Heinrich Böll Foundation, a front for the influential German Green Party.[1] The 16 authors include Hilary French of Worldwatch Institute; Anita Roddick, left activist and founder of the Body Shop; and Sara Larrain of Greenpeace. The Memo argues that the "environmental crisis" proves that technology is no longer a solution to human problems. Before the "environmental crisis . . . one could still attribute a certain degree of superiority to the technological civilization which had emerged." Of course, since the Green movement started predicting disasters "it has become obvious that many of [technology's] glorious achievements are actually optical illusions in disguise" (p. 18).

For these Greens, market solutions don't exist either. "[A]ny expansion of the market . . . hastens environmental degradation in the end. No wonder that forests disappear, soils erode, and the sky fills up with carbon. The surge of economic expansion, spurred by trade liberalization, has largely washed away the modest gains, which have materialized in Rio's wake" (p. 13). (In 1992 the U.N. Conference on Environment and Development was held in Rio de Janeiro.)

What is important in that sentence is the admission that markets and trade liberalization do lead to economic expansion. For decades the Left has denied it. But the Left, especially the Green Left, has abandoned the desire for economic progress. It is literally seeking the stagnation that socialism produced.

Old-time Marxist egalitarianism still inspires these authors. As the Memo argued: "Neither all nations nor all citizens use equal

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shares [of the planet]. On the contrary, the environmental space is divided in a highly unfair manner. It still holds true that about 20 percent of the world's population consume 70–80 percent of the world's resources. It is those 20 percent who eat 45 percent of all the meat, consume 80 percent of all electricity, 84 percent of all paper and own 87 percent of all the automobiles" (p. 19).

Such claims have a veneer of truth. But the underlying premises are where the problems exist. The planet is not "divided in a highly unfair manner." Why? Because no division ever took place. No one decided to condemn some people to live in the Arctic, while others were assigned to live where coal was plentiful and others where sunshine was a daily occurrence. There was no initial division of resources that intentionally favored some people over others. The planet simply is, and humanity evolved all over the planet at different times. It is no more unfair for one group of people to live in one place than it is for humanity to live on this planet as opposed to others that might be more hospitable. Fairness applies to how human beings deal with one another. It does not, and cannot, apply to the initial random distribution of resources on the planet.

The Myth of Resources

There is something even more fundamentally wrong with this claim. Resources, in a very real sense, are not distributed anywhere on the planet. A resource is a material good that we can use. Before the discovery of refining, petroleum was not a resource. It was a liability.

If we recognize that a resource is a natural material that is endowed with value through the application of human knowledge, then the fact that some people have, or consume, more resources than others is not relevant. The real question is what can we do to help those who have access to fewer resources obtain access to more resources. But that is completely opposite of what the Greens want.

Yes, the 20 percent own 87 percent of the automobiles. At one point they owned 100 percent. Automobiles were invented in the West. It wasn't that Fords were equally distributed throughout the world until colonialists confiscated the cars of Third World peoples. And maybe the 20 percent consume 80 percent of all electricity. Again, they once consumed 100 percent of it. If anything, the trend indicates that resources discovered in the West are transmitted to other parts of the world. What Henry Ford did in Detroit 100 years ago now benefits people in the most remote regions of Africa. Billions of Third World people benefit because Thomas Edison existed.

At first one could get the impression that this talk about equality means Greens want to raise the living standards of the world's poor. But this is not true. Paradoxically, the Greens argue that all people are equal owners in the planet, yet these people have no right to use those resources. They state, according to the Jo'Burg Memo, "every inhabitant of the Earth basically enjoys an equal right to the natural heritage of the Earth" (p. 36).

That would be typical socialism. But they go one step further to announce that this equality of rights means no rights at all: "it still does not equally imply a positive right, i.e. an entitlement to maximize the use of nature on the part of the less consuming world citizens" (p. 36). They make it clear that the poor, whom they call "underconsumers," are not to become wealthy at all. "While the over-consumers are not entitled to excessive appropriation, the underconsumers are not to catch up with the overconsumers" (p. 36).

True to their egalitarian roots, the Greens complain that the West consumes too much of the world's resources. But they do not want the poor of the world to have access to the riches of the West. While they condemn the unequal distribution of production and consumption, they do not want to raise up the poor but tear down the wealthy. That's what socialism has accomplished in practice. But while equal poverty was an unintended consequence for the Marxists, the Greens explicitly seek it.

The Memo makes this quite clear.

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"Reduction of the ecological footprint of the consumer classes around the world is not just a matter of ecology, but also a matter of equality" (p. 20). Note that they want the so-called consumer classes to reduce their wealth. They condemn the "globalized rich and the localized poor," but oppose globalization as a way to enable the poor to increase their wealth. "There is no point in sacrificing people's lives in the present for speculative gains in the future" (p. 21).

They argue that "it is not at all certain that the marginalized shared in these benefits" (p. 20). But that is a false argument. Even if new wealth were evenly distributed to everyone on the planet, the Greens would still oppose it. They use the fact that people are unevenly productive as an excuse to forbid production itself. This is merely a smokescreen meant to divert attention from their agenda: the end of wealth production by humankind.

The Memo argues that the only way to eradicate poverty is to eradicate wealth! "Poverty is the Siamese twin of wealth. Both develop jointly and neither can be fully understood without reference to the other. Usually, the poor are conditioned by wealth, and the rich thrive on benefits drawn from the poor. Hence in our perception, no calls for poverty eradication are credible unless they are accompanied by calls for reform of wealth" (p. 35).

Green "Logic"

Again, Green logic is a wonder to behold. For millennia humankind thought that poverty existed as man's default status. Effort, energy, and thinking are used to create wealth. Where most people saw wealth creation as an evolutionary process by which we left poverty behind, the Greens say this is false. Poverty was created at the same time wealth was created. But what existed before poverty and wealth? We see poor people become rich all the time. We see man's evolution as moving from a state of deprivation to a state of relative plenty. But if poverty and wealth developed jointly, what came before them?

This Green logic, however, is necessary to achieve the real agenda: the eradication of wealth. If you accept that wealth created poverty, then the destruction of wealth will destroy poverty. In the Memo, the authors merely say they want to "reform" wealth. But they do become more explicit.

As they see it, the problem is wealth itself, not its unequal distribution either in consumption or production. The idea of lifting the Third World out of poverty and despair is the wrong policy, according to the Greens. Such developmental ideas "advocate remedies for raising the living standards of the poor"(p. 35). What's wrong with that? The Memo answers: "In short, they work at lifting the threshold—rather than lowering or modifying the roof. . . . Poverty alleviation, in other words, cannot be separated from wealth alleviation" (p. 35).

Thus the real Green agenda is "wealth alleviation," and all the movement's policies are intended to do just that: reduce the wealth of Western "consumer classes." And it doesn't mean reducing it by the piddling amounts envisioned by the Kyoto Protocol on alleged global warming. It means the destruction of the bulk of wealth in the world today. The Memo makes this clear: "the global North will need to bring down its overall use of the environmental space by a factor of 10, i.e. by 80–90 percent, during the coming fifty years" (p. 36). Memo author Roddick, once gushed about Castro's Cuba, saying that it amazed her "how quickly you could fall in love with the economics of less."[2] But then she's a multimillionaire.

Wouldn't this mean a return to a primitive state? Of course it would. But this is precisely what the Greens want. They are advocates of primitive tribalism over Western science and development. As far as they are concerned, science is a form of colonialism, an arrogant Western invention that diminishes the true value of "traditional" societies and their deeper understanding of the planet. That primitive communities still cling to existence in backwaters and remote regions of the world is alluded to as proof of their ability to create genuine knowledge. "[T]he

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success and long term sustainability of traditional strategies of generating and communicating knowledge" proves they are useful.[3]

The idea of a primitive paradise has Old Testament roots and it eventually evolved into the secular myth of the "noble savage." Rousseau's idea of the "state of nature," where man lived in perfect harmony with nature, has long been a favorite with the radical Left. For Rousseau, such a state was one where man is "wandering up and down the forest, without industry, without speech, and without home, an equal stranger to war and to all ties, neither standing in need of his fellow-creatures nor having any desire to hurt them and perhaps not even distinguishing them one from another."[4] That such a state never existed is irrelevant to leftwing theology. Rousseau, like all good leftists, argues that it was private property that destroyed man's paradise. Private ownership, he says, resulted in war and misery and the destruction of the mythical garden of social equality.

The Greens have merely adapted Rousseau's secularized version of Eden and proposed public policy based on this imaginary state. In his book *Wild in the Woods: The Myth of the Noble Eco-Savage,* Robert Whelan provides many quotations showing that the Greens, like those who wrote the Jo'burg Memo, believe that "indigenous" primitive groups lived in a perfect state with nature before the arrival of the evil westerners.[5]

Roddick used her chain of Body Shop stores to promote this kind of false history. A bag for her expensive soaps and fragrances had printed on it: "The wisdom of the world's indigenous peoples is the accumulation of centuries of living not just on the land, but with it."[6]

But the "indigenous peoples" were terribly wasteful and destructive. Around the globe, including North America, tribes routinely slaughtered animals without concern for replenishing the stock. (See Larry Schweikart's "Buffaloed: The Myth and Reality of Bison in America" in this issue.) Whelan notes that in Australia the arrival of the aborigines led quickly to the demise of several "'giant' macropodids (kangaroos and related species). Within 15,000 years, all were extinct."[7] In Madagascar natives drove several species of giant lemurs to extinction. The Maoris of New Zealand, science writer Matt Ridley said, "sat down and ate their way through all twelve species of the giant moa birds."[8] The Aztecs of Mexico managed to deplete their soil. These are only a few of many such examples, all of which prove that the Greens are merely creating another false story to promote their agenda.

Such "traditional" methods of living are destructive to life itself, and that's one reason that the vast majority of humanity has abandoned them. The Green anti-science bias is really behind this glorification of traditional societies. For that movement, the question is whether "modern agro-science [will] replace all other systems of knowledge."[9] As the authors of the Jo'Burg Memo wrote, "Should this new generalizable system of knowledge [science] which is in conformity with the global market, replace all other systems of knowledge? Respect for cultures as well as prudent skepticism about the long-term effectiveness of science suggest a negative answer" (p. 44).

Science as Colonialism

In fact good old-fashioned egalitarianism, writes the Böll Foundation, is another reason for dismissing science and embracing folk wisdom. The Jo'Burg Memo says, "Fairness and unmitigated emergencies both demand that community systems of knowledge be given a chance" (p. 45). Of course these "community systems of knowledge" not only were given a chance, but they dominated human thinking for millennia. They were abandoned because they didn't work. But for the Greens, "Modern science has been described as a late form of colonialism because it assumes the power to define what is rational, innovative, and relevant across cultures" (p. 45).

What does this mean? At its root the authors are saying there is no such thing as objective reality. Colonialism decides what is rational, innovative, or relevant. In fact, it is

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nature, the very thing the Greens pretend to worship, that determines all this. True science is consistent with reality and not with anyone's presumptions or values about reality. A good scientist discovers facts that correspond with what is real.

Again, this part of the Memo exposes a fallacy about the Greens. When they predict disasters and doom they use "scientific" terminology like bio-systems and ecology and give long, convoluted arguments about how these bio-systems work and how human intervention inevitably leads to disaster. Although sounding scientific, these arguments are fundamentally anti-science. More important, they are often ignorant about science. This was illustrated when the office of a Green Party member of Parliament in New Zealand said the MP would be willing to help a campaign to ban dihydrogen oxide. That's water.

So what explains the Greens' desire to eradicate wealth? One answer is found in *The Totalitarian Temptation* by Jean-François Revel. He argued, "the totalitarian temptation is really driven by a hatred on principle of industrial, commercial civilization, and would exist even if it were proven that people in that civilization were better fed, in better health and better (or less badly) treated than in any other. The real issue lies elsewhere: money is sinful, the root of all evil; and if freedom was born of economic development, then it too suffers from that original sin."[10] □

1. Wolfgang Sachs et al., "The Jo'burg Memo: Fairness in a Fragile World," Heinrich Böll Foundation, Berlin, 2002. Until otherwise noted, quotations are from this document.
2. Allan Levite, *Guilt, Blame and Politics* (San Francisco: Stanyan Press, 1998), p. 56.
3. Sachs et al., p. 43.
4. Jean-Jacques Rousseau, *The Social Contract and Discourses* (London: Everyman's Library, J.M. Dent, 1997), p. 61; quoted in Robert Whelan, *Wild in the Woods: The Myth of the Noble Eco-Savage* (London: The Environment Unit, Institute of Economic Affairs, 1999), p. 16. *The Social Contract* was published in 1762.
5. Whelan, pp. 22–23.
6. Paper bag, "Who Do We Think We Are?," produced by The Body Shop; quoted in Whelan, p. 23.
7. Whelan, p. 35.
8. Matt Ridley, *The Origins of Virtue* (London: Viking, 1996), p. 219; quoted in ibid.
9. Sachs et al., p. 43.
10. Jean François Revel, *The Totalitarian Temptation* (Hammondsworth, England: Penguin Books, 1977), p. 279.

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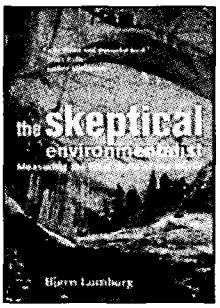

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IDEAS ON LIBERTY
DECEMBER 2002

The Constitution According to George Bush

White House lawyers have reportedly told President George W. Bush that he doesn't need congressional authority to go to war. For political reasons, the President says he will seek "congressional support for U.S. action" in Iraq. But will he agree to be bound by a no vote? If not, his request is meaningless.

The Constitution explicitly requires that Congress shall "declare war." And the Founders' explicit intention, even while recognizing the President's need to be able to respond defensively in an emergency, was to limit his war-making authority. Virginia's George Mason, for instance, spoke of "clogging rather than facilitating war." Thomas Jefferson wrote of creating an "effectual check to the dog of war by transferring the power of letting him loose." Even Alexander Hamilton agreed.

Alas, Bush 43 seems to be following in the footsteps of Bush 41. The latter stated, "I don't think I need it," when asked if congressional approval was necessary before attacking Iraq more than a decade ago. Why? "Many attorneys," he said, had "so advised me." Too bad neither Bush apparently bothered to read the Constitution.

The president is the commander-in-chief, but only within the legal framework established by the Constitution and Congress. He cannot create a military—Congress must authorize the forces and approve the funds. Congress is also tasked with setting rules of war and organizing the militia. The president can negotiate a treaty ending a conflict, but the Senate must ratify it.

If the President can unilaterally order an attack on a nation halfway around the globe that has not provided a traditional casus belli, the Constitution is dead. And if conservatives treat the Constitution as dead when it suits them, they should stop complaining when federal judges, "liberal" activists, and Democratic politicians do the same.

Why, for instance, require congressional approval to impose taxes and borrow money? The Constitution lists this as one of the legislature's enumerated powers, but that outmoded provision need not dictate present policy.

If the president sees a critical need, he shouldn't have to wait for Congress to act. Especially if selfish, petty, and political legislators say no.

Nor should the nation's fiscal health be impaired by pork-minded congressmen who lard essential bills with special-interest subsidies. Whatever the merits of the Founders' scheme, the president should be able to cut wasteful spending unilaterally, without having to veto entire bills or fear being overridden. Article 1, Section 8, empowers Congress to "establish an uniform Rule of Naturalization" as well as bankruptcy and patent laws. But look at what a mess legislators have made of the first, with foreigners coming to America to kill. Populists are doing their best to block bankruptcy reform. Patents are currently subject to a bitter congressional fight.

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Forget the Constitution. Let the president decide. Congress is allowed to establish post offices. It did so, and now Americans are suffering under an inefficient monopoly. Yet the postal unions block any change. The president should act unilaterally.

The problem of judicial activism would have disappeared had President Franklin Delano Roosevelt been able to pursue his "court-packing" plan. Why should some abstract constitutional provisions and congressional intransigence have prevented him from doing what had to be done?

Indeed, we could dispense with congressional approval of presidential nominations. The Senate's "advise and consent" function is outmoded; the president should simply declare his nominees to be in office.

Health-Care Debate

Moreover, consider the potential of executive predominance during the ill-fated health-care debate of 1993–1994. The crisis should have been obvious: Tens of millions of people without health insurance, sharply rising medical and insurance costs, growing popular dissatisfaction with the system. Yet rather than working with the president, Congress thwarted Bill Clinton's efforts. The GOP was especially shameless, using the issue for its own electoral gain.

Now, almost a decade later, the same problems remain with us. If only the President had had the courage to act unilaterally. Consider the speech that he could have given explaining why he was putting the Health Security Act into effect on his own authority:

"I realize that some people of good will believe that the Constitution gives this power to Congress. But there are few issues more important than Americans' health. Many lawyers have told me that the Constitution established an energetic chief executive, vesting him with final authority for protecting the public. In my view, that requires acting to assure secure health care for all Americans."

Why stop there? The Constitution's electoral scheme is notably defective. The mere fact that more than two centuries ago some dead white males concocted a system as cumbersome as the electoral college doesn't mean that we should follow it today. And if Congress won't approve a constitutional amendment to fix it, why shouldn't the president unilaterally recognize the candidate who has greater popular legitimacy by winning the most votes?

What is most surprising is not that presidents routinely attempt to expand their war-making authority, but that Congress is so ready to surrender its power. Of course, the partisan pirouettes are staggering.

Democrats outraged at what they saw as persistent abuses by Presidents Richard Nixon, Ronald Reagan, and George Bush suddenly gained a strange new respect for executive power when President Clinton was preparing to invade Haiti and attack Serbia. Republicans routinely defended executive privilege by "their" presidents and criticized Clinton's propensity to bomb other countries unilaterally.

Still, why surrender the most important power, whether or not to go to war, to a competing branch? House Majority Whip Tom DeLay explains that the President "has said he's going to come to Congress when he decides what needs to be done and when it needs to be done."

But DeLay must have taken an oath to a *different* Constitution than the one under which we live. The U.S. Constitution says that the Congress decides what needs to be done. DeLay might prefer that the Constitution read differently. It doesn't, however.

For all of the bizarre constitutional interpretations emanating from law schools, courts, and op-ed pages, most people recognize that the President's domestic powers are circumscribed by the law of the land. So too are his war powers. President Bush needs to do more than request Congress's approval for war in Iraq. He has to abide by its decision. □

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IDEAS ON LIBERTY
DECEMBER 2002

The Living Wage: What's Wrong?

by Walter Block and William Barnett II

The latest on the minimum-wage front, brought to us by the academic minions of "social justice," is a private, not a public, effort to raise the pay of low-wage workers. Emanating first from prestigious institutions of higher learning such as Harvard and Yale, this initiative has spread like wildfire to colleges all around the country.

The gist of the program is to raise the wages of janitors and others at the lower end of the pay distribution to $10 or $12 an hour, and to boycott suppliers who do not undertake a similar program. A minimum wage of $5.15, it would appear, might be all well and good, but something twice that amount is necessary if it is to be a "living wage."

It is entirely legitimate for a private university to offer whatever pay scale it wishes and to boycott any businesses whatsoever, for any reason it chooses. However, institutions of higher learning are supposedly distinguished by rational dialogue, and it is in this vein that we wish to register an objection to this unwise policy.

Let us consider several reasons for declining to pay labor more than is necessary to attract a sufficient number of job applicants and for ending discrimination against firms that pay market wages.

1. Universities attempt to raise funds from the entire business community (among many other constituents). Making invidious comparisons between firms—singling out those that operate under market conditions for implicit condemnation—can hardly be conducive to this end. But this is mere pragmatism, unworthy perhaps of even being considered.

2. The program will likely not have its intended effect of boosting the wages of low-skilled workers. Suppose the typical university subcontractor pays its unskilled employees $6 an hour and the "social justice" wage is $10. People in this stratum of the labor force would give their eyeteeth for such a position, since it pays 40 percent more than the market says the job is worth. Would not everyone and his uncle making under $10 gladly take up such a job? How will the limited number of spaces be allotted to the vast hordes of people? Would it unduly challenge credulity to think that some of the few selected would be willing to make a side payment to the hiring staff? Or that this might be demanded of applicants? Or that nepotism, favoritism, and other forms of discrimination might arise? After all, if prices are not allowed to allocate labor resources, other criteria will be used.

3. If you want to give money to poor people, why not just go ahead and do it? Why tie it to their jobs of all things? That is, why

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conflate charity with an attempt to disrupt the labor market? Universities, at least private ones, are part of the market. Therefore they cannot disrupt it with any voluntary act on their part, even of this sort. But why even try? Why offer extra money to the unskilled in the form of higher salaries when you can use these funds for education or training or anything else under the sun?

People Are Different

4. The notion of justice underlying the "living wage" is predicated on the philosophy that income differences are unfair. It is patently obvious that in a market-based society, the primary reason some people are wealthy and others very much not so is that they have different initial endowments of intelligence, work ethic, ambition, talents, and entrepreneurial skills, as well as inherited material wealth and even luck. But despite these differences, the market tends to diminish income differences that would otherwise exist. This is because to become rich under free enterprise, you must enrich the lives of many other people; at the apex of the economic pyramid you gain a great deal, but you also drag onto a higher economic plane practically an entire society. (Think of Bill Gates or Henry Ford.) If we all lived on tiny islands as hermits, without economic interaction, some of us would be far wealthier than others. If material differences in wealth are unfair, then are not the very causes thereof, different endowments of human capital, also unfair?

Egalitarianism as a philosophy is dead from the neck up, insofar as even its adherents do not and, indeed, cannot take it seriously. Yet suppose there were a magical machine that could transfer IQ points (or beauty or health or hair follicles or musical ability) from those that have "a lot" to those who have "too little." It would be the rare egalitarian who would follow through on this pernicious philosophy. In contrast, the freedom philosophy requires only that people keep their hands off other people and their property, something far more peaceful and just, and also more readily attainable. □

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IDEAS ON LIBERTY
DECEMBER 2002

The Claims for Total War Revisited

by Joseph Stromberg

According to the numerous defenders of Total War, no means of breaking an enemy's will can be forsworn under the conditions of modern warfare. The enemy includes every member of the "enemy society," regardless of age, gender, occupation, etc. Any vestiges of eighteenth- or nineteenth-century practices that aimed at limiting the destructiveness of war and at preserving as much as possible of normal life during war reflect mere sentimentality or obsolete punctilio.

Total Warriors like to recommend General Sherman's cute little saying that "war is hell." You can see Sherman quoted about once a day at National Review Online and other such places. Of course as a Confederate officer retorted at the time, "it depends somewhat on the warrior."[1]

The fact that so many states knowingly *chose* to abandon older limitations and rules during the twentieth century does not go very far toward proving that circumstances beyond their control drove them to their decisions and that they could not have made different decisions.

Still, otherwise sane military historians of the Boer War, for example, will say that British policymakers "had no choice" but to begin burning farms and putting Afrikaner women and children into concentration camps where 27,000 of them died. They had to do so, once their opponents resorted to unconventional warfare.

Otherwise, the British would not have won.

To this, one may say, So what? Is anyone outside the British state apparatus required to care about that? Is there any reason to suppose that British forces had some kind of *right* to prevail, a right so overriding as to sanctify any means that could contribute to that end?

To put it another way, does it necessarily follow, even if Britain did embody the cause of civilization and enlightenment in the Boer War—an extreme hypothesis, I admit—that it would therefore have been moral for the British commanders to use any means at all?

Getting the War Over With, "On Schedule"

Aside from general name-calling and the unproven but popular claim that the Good may use means that the Bad may not, Total Warriors have a few other arguments up their sleeve. One is that Total War—the policy of making war on the enemy's entire society—is defensible, even humane, because it "shortens the war." There are some problems with this argument, the first of which is that one would like to see some proof that Total War tactics have shortened all wars, most wars, or even any war in which they were used.

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The next question is, What is so great about shortening the war? A war carried on with old-fashioned restraint and respect for civilian lives and property would not obviously be worse, if it lasted beyond some arbitrary time, than a shorter war carried on with every possible weapon available to imaginative Total Warriors. I think this may go part of the way toward answering the Total Warrior's claim that shortening the war "saves lives."

If merely "saving lives" were the point, then the quickest way to fulfill that goal would be to end the war.

We learn little enough from the claim that Total War saves lives; we don't know *whose* lives are being saved, nor do we get an estimate of how many will be saved, proportionately, by carrying on Total War instead of some other kind of war that might last longer on the calendar. I am not sure that we know if any lives will be saved *at all* by Total War. More might well be killed. The most we might say is that there will be a different distribution of victims.

Traditionally, if contending powers actually wanted to shorten a war, they had other means, such as negotiating and making peace. I suppose that was silly of them, but it was a choice to which the powers sometimes recurred. I see no reason to dismiss it out of hand in favor of flattening the enemy's entire society.

The Inconveniences of Behaving Rightly

In any case, it does not at all follow—even if Total War brings with it such benefits as shortening the war and saving *unspecified* people's lives—that it could ever be moral to use the means to which Total Warriors are addicted. They will naturally say that with mass conscription, complex industrial economies, and the rest, no one can be asked to make a strict distinction between combatants and noncombatants or between military and civil production. As one authority put it in the 1920s: "To require aviators to single out the one class of persons and things from the other and to confine their attacks 'exclusively' to one of them *will in many cases amount to an absolute prohibition of all bombardment*" [my italics].[2]

Precisely!—And where's the problem?

Of course the early exponents of air power reasoned that it would be "inconvenient" not to bomb and that, therefore, bombing *must* be done, and any rules limiting the use of this wonderful tool should be set aside. This reflects a view which, as Thomas Nagel noted in 1972, is "widely accepted in the civilized world," namely, that "any means can in principle be justified if it leads to a sufficiently worthy end." He comments that "If it is not allowable to *do* certain things, such as killing unarmed prisoners or civilians, then no argument about what will happen if one doesn't do them can show that doing them would be all right."[3]

This is not such a difficult proposition. Imagine, for instance, that most people believed that Fred Smith should be wealthy. Fred Smith might decide that killing his six wealthiest neighbors and taking their stuff was an acceptable way to reach this widely approved goal. But, now, most would say they agreed with the goal but not his chosen means. This would not be because murder was wrong only in close connection with that particular end. The end does not come into it at all. Murder was wrong as such before Smith's goal was formed and his program announced. Its wrongness has no relation to its possible place in Smith's, or anyone's, complex chain of ends and means.

Referring to U.S. strategy in Vietnam, Nagel writes: "Once the door is opened to calculations of utility and national interest, the usual speculations about the future of freedom, peace, and economic prosperity can be brought to bear to ease the consciences of those responsible for a certain number of charred babies."[4] It is important to see what Nagel is saying here. He is *not* saying that there are *no such things* as utility and national interest.

He is saying that if there is an overarching moral framework, considerations of utility and national interest (whatever that might be) cannot *decide* questions that are essen-

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tially moral, that is, questions of what it is right to do. Within the moral framework, we can and do make decisions about utility and the like all day long. But notions about utility and national interest—if the latter even exists apart from the interest of actual people living under some state, and this is my question, not Nagel's—cannot take the place of moral reasoning.

Now, all this is "extremist" stuff, to be sure, and I am glad that Nagel is carrying some of the burden here. His approach, if anyone cared to take it up, would tend to render Total War impossible. Under this strict standard, Total War appears as the highest stage of organized criminality.

States and their intellectual apologists have, since the sixteenth century, gotten away with a great deal of imposture in the area of morality. States, it has been said, are not like other human associations. They must make the really tough decisions, create peoples, pursue Hegelian missions, and so on, unfettered by the petty, everyday rules of mere morality. The state, indeed, is the *source* of law, and there you are.

That is not the only way in which to view these things, and may well be the worst way to do so.[5]

Nagel goes on to address "the widely imagined difficulty of making a division, in modern warfare, between combatants and noncombatants," as well as "problems deriving from the connotation of the word 'innocence.'"[6]

All he means by "innocence" is "currently harmless," i.e., that someone is not presently aiming a gun at you, for example. This is helpful because it gets us beyond those high-flown constructs wherein the failure of the butcher, the baker, and the candlestick maker to overthrow the government under which they live, which happens to be at war, makes them "guilty" of whatever that government did or did not do to bring about the war or of whatever that government is doing in the course of the war. Under the other, more popular notion of innocence and guilt, everyone in the enemy society is guilty—of not overthrowing the government, of living there, or what?—and is therefore a target.

Thus the shoemaker, who repairs the shoes of the farmer who grows crops which might, some of them, be used to feed the army, members of which might actually do current harm to some actual combatant on the other side, does not automatically become a "legitimate target" just for doing what he would be doing anyway, if there were no war. Nagel writes: "The threat presented by an army and its members does not consist merely in the fact that they are men, but in the fact that they are armed and are using their arms in the pursuit of certain objectives. Contributions to their arms and logistics are contributions to this threat; *contributions to their mere existence as men are not.* It is therefore wrong to direct an attack against those who merely serve the combatants' needs as human beings, such as farmers and food suppliers, even though survival as a human being is a necessary condition of efficient functioning as a soldier" [my italics].[7]

Here Nagel harks back to the position of such radical nineteenth-century laissez-faire liberals as Gustave de Molinari, who argued that the rules of warfare ought to be reformed to separate as completely as possible the enterprises connected with war from those of commerce. The latter ought to be allowed to proceed, as much as possible, as they would in the absence of war. Indeed, I think that Nagel's conclusion could be stated even more radically, but I would not want to outflank him on the right, or left, or whatever it is these days.

On the basis of the view that war establishes "personal relations" between those involved, relations which have their proper "target,"[8] and that soldiers are to be attacked in their capacity *as soldiers* and not as men, Nagel rejects as barbaric and atrocious such weapons as flamethrowers and napalm, which do far more than stop, incapacitate, or kill the man-as-soldier but inflict unneeded harm on him as a man.[9] Total Warriors, I am sure, can only shake their heads at such utter sentimentality. And yet Nagel has a point.

In the same part of the discussion, Nagel suggests that the existing "laws" of war may be entirely too permissive, having been

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drawn up by cynical state functionaries, and thus may not constitute any moral framework at all. I would add that state actors have *chosen* to adopt the assumptions of Total War. As international law goes, however, the 1977 Protocol to the Geneva Conventions, Part IV: Civilian Population is a pretty good attempt at stating rules that would re-establish some distinction between combatants and noncombatants.

It should come as no surprise that the United States has not bothered to ratify the 1977 Protocol.

Rather than acknowledge the possibility of a larger moral framework, the United States prefers a sort of utilitarianism, described by Nagel as "a view of oneself as a benevolent bureaucrat distributing such benefits as one can control to countless other beings, with whom one may have relations or none. The justifications it requires are primarily administrative."[10]

It would never do for the One Remaining Super Power to admit that ethical norms might exist—norms that were not mere derivatives of policy, and that were not instrumental and manipulative rationalizations of whatever the empire's leaders wish to do anyway. It would cramp their style and hamper their flexibility. We should not even ask them to look into it.

You may expect to see a lot of new moral slogans under the empire's present management, but you may not expect to see much actual morality. This is only an empirical judgment. Nevertheless, I expect it has high predictive capacity.

One last thing: Why raise the issue of Total War now? For one simple reason—if the reigning U.S. leadership are really bent on war against Iraq or any other state, any war they launch will be a Total War. It is a U.S. tradition since at least 1862. They know no other.

We shall hear all about "precision" weaponry and bombs so smart that they can recite passages from Immanuel Kant.

Well, some things are subject to empirical study. The U.S. authorities learned one thing in Indochina: foreigners, and even a handful of Americans, get a little edgy at these ongoing displays of massive explosive overkill. U.S. spokesmen certainly talk a good game of precision these days. Maybe they *will* kill fewer enemy civilians per square foot than has been their habit in the past.

If they can manage that, we can acknowledge the achievement without undue rancor. It will still not establish their *right* to have killed however many civilians they actually do kill. It will not establish much of anything except an aptitude for applied science and new advances in propaganda. Nor will it justify the large number of Iraqi deaths, over the ten years of non-war and non-peace of recent memory, deaths with which a late U.S. Secretary of State could live. □

1. Richard M. Weaver, "Southern Chivalry and Total War," in George M. Curtis III and James J. Thompson, Jr., eds., *The Southern Essays of Richard M. Weaver* (Indianapolis: Liberty-Press, 1987), p. 167.
2. J. W. Garner, quoted in Elbridge Colby, Capt. U.S. Army, "Aerial Law and War Targets," *American Journal of International Law*, October 1925, p. 710.
3. Thomas Nagel, "War and Massacre," *Philosophy and Public Affairs*, Winter 1972, p. 127.
4. Ibid., p. 129.
5. For excellent reconstructions of the grounds of political ethics, see Frank van Dun, "Philosophical Statism and the Illusions of Citizenship: Reflections on the Neutral State," in Boudewijn Bouckaert and Annette Godart-van der Kroon, *Hayek Revisited* (Cheltenham, England: Edward Elgar, 2000), pp. 89–108, and Murray N. Rothbard, "War, Peace, and the State," in *Egalitarianism as a Revolt Against Nature* (Auburn, Ala.: Ludwig von Mises Institute, 2000), pp. 115–132, and *The Ethics of Liberty* (New York: New York University, 1998).
6. Nagel, p. 139.
7. Ibid., p. 140.
8. Ibid., pp. 133–34.
9. Ibid., p. 141–42.
10. Ibid., pp. 137–38.

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Back to Basics

Lately I've landed in discussions about whether there is such a thing as human action. I'm not kidding. Some educated people have their doubts.

Just to be clear from the outset, human action, as Ludwig von Mises pointed out, is purposeful behavior, as opposed to the reflex that occurs when the patellar tendon is struck. Someone decides he wants to accomplish an end (anything from sitting down to hunting quarks). He selects means that he believes have a good chance of achieving the end. Then he uses the means to try to achieve the end. "Action is will put into operation," Mises wrote.

In other words, as Thomas Szasz reminds us, people's action have reasons, not causes. A person sits down because *he wants* to rest or read or watch television. He didn't have to do it. Even if a gunman orders him to sit down, he still chooses it (rather than being shot; but this doesn't exonerate the gunman). In contrast, a billiard ball moves because it is hit by another. Given the conditions, it had to move. It can't decide not to move this time because it's tired.

Nevertheless, pop science today regards human beings as highly complex billiard balls rather than as persons.

In my recent discussions, my interlocutors stated that modern neuroscience has shown, or undoubtedly will soon show, that what we call "the mind" and all its activities are really *just* neurochemical processes. Notice what this means. The brain is a physical organ. As such, it follows the laws of biology, chemistry, physics, quantum physics, and of any other hard science we have yet to discover. The brain cannot make choices. It is not free. So when someone says that mind is nothing but brain, he is saying that the things we associate with mind—choosing, preferring, thinking—aren't real.

In philosophy this is called epiphenomenalism. It's hardly a modern view. Thomas Henry Huxley used the term in 1874 in his paper "On the Hypothesis that Animals are Automata." In his view, consciousness is thought to be an "epiphenomenon of molecular changes in the brain and hence all mental events to be the effects of physical events but never the causes of either physical or other mental events."* I guess Huxley never had a thought that made him laugh or set his heart pounding.

When I respond that no materialist description of mental activity could ever be complete, I am accused of dogmatically predicting what science will *not* discover in the future. How do I know neuroscientists won't find a way to give a complete account of what we call "mental activity"?

I respond by noting that while mental activity of course requires physical equipment and processes, logically this must mean that mental activity cannot be the *same* as physiological activity. After all, if A (mental

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*Antony Flew, *A Dictionary of Philosophy,* rev. 2d ed. (New York: St. Martin's Griffin, 1984), p. 109. An alternative view is interactionism, "according to which physical events can cause mental events, and vice versa." See ibid., p. 175.

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activity) requires B (physiological activity), or if B causes A, then obviously A can't be the *same thing* as B. A thing can't cause itself. It would make more sense to simply deny the existence of A and say there is only B. I'd have thought that this point would be an argument stopper, because how can neuroscience describe something—conscious experience—that is outside its purview? Can a physicist explain why a car goes to Wal-Mart rather than Kmart? (See Gene Callahan, "What Is Science?" www.lewrockwell.com/callahan/callahan92.html.)

Alas, the argument does not end. Nor does my next tack succeed. I usually go on to say that it is *empirically* clear that our introspective experiences are different from whatever electro-chemical things are happening in our brains. When I introspect I am not aware of neurological events. I am aware of thoughts, feelings, intentions, and so on. I'm even aware of my being aware (self-consciousness). This is what Szasz calls the "self-conversation" that constitutes "the mind." It is noteworthy that we have two separate vocabularies for introspective events and physiological events. I know what a funny thought is. I don't know what a funny neurochemical event is. (Maybe I have a poor sense of humor.)

There may have been a better way to wrap up the discussion. I could have asked, "Do you mean to tell me that there is no such thing as purposive behavior?" Maybe that's too subtle, but obviously it would be self-contradictory to reply, "That's what I mean." What does it mean for a person to *mean* something? Purpose and intention are affirmed in the very act of communicating a denial of them. Thus, as Ayn Rand and others have noted, such things are self-evident. The concept "proof" presupposes them.

Purpose Is Pervasive

Each of us has evidence of purpose every moment of our waking lives—through introspection. Countless times a day we say to ourselves, "I will do such and such" and then we do it (or try).

But the modern neuroscientist disregards this evidence. Why? Precisely because it is introspective and hence branded "unscientific." This is where scientists show that they are as capable as anyone else of being unscientific. There is no reason, a priori, to rule out introspection as a source of valid information. To do so is arbitrary.

The pop materialists create a filter out of the methods of physics and chemistry, then arbitrarily dismiss anything that cannot get through their filter. Biochemical processes make it through. Thought, will, intention, and purpose do not. Thus they are ignored. It's the most egregious act of question-begging (assuming that which is at issue) I can think of.

This is not science or reason. It is *scientism*, the application of the methods of the hard sciences to matters where those methods are inappropriate. Mises and F.A. Hayek argued vigorously that studying the world external to consciousness (including the human body) is different from studying the foundations of human action. When we study the movement of planets or molecules, we are *outsiders,* recording data, discovering the nature of entities, and looking for regularities, causes, and effects. But we observe human action as *insiders*. From our own internal experience we know what human action consists of. We know directly what it means to think, to will, to choose, to prefer, to attend to, to *mind*. Following Szasz, I've used verbs, not nouns, because they are actions not possessions. That's the answer to those who wonder where the mind is located. (See Szasz, *The Meaning of Mind,* 1996.)

Why does this matter in a magazine called *Ideas on Liberty*? There should be no mystery. If mind is brain, there is no "psychological" freedom or responsibility—no humanity. And if those don't exist, there can be no political freedom or self-responsibility. What does not exist cannot be violated.

The freedom philosophy presupposes human action and all that it entails, including self-responsibility. The hard sciences are great human achievements, but for the sake of liberty, they must not be permitted to overstep their bounds. □

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IDEAS ON LIBERTY
DECEMBER 2002

The Tax Code—Now That's Outrageous!

by Scott McPherson

If you've ever had the sinking suspicion that many in the mainstream media just don't get it, then the September 2002 issue of *Reader's Digest* was just for you. In its pages, conservative columnist Tucker Carlson penned his mighty attack on American business under the title "Artful Dodgers," in the "That's Outrageous!" department of the magazine. Mr. Carlson's wrath was directed at the greedy, "unpatriotic" manner in which large American corporations were "dodging" their taxes.

"When you think of Enron, you think of Houston," writes Mr. Carlson. "You probably don't think of Mauritius, a tiny island republic off the east coast of Africa. . . . By the beginning of 2000, [Enron] had no fewer than 43 subsidiaries" there. "Why was Enron doing so much business on an island in the Indian Ocean?" he asks. "Taxes. Avoiding them."

Tucker Carlson's complaint stems from the fact that "Individuals pay income taxes on what they earn, no matter where they earn it." By comparison, "Corporations play by different rules. They pay federal income taxes only on money that enters the United States. In other words, if your Mauritius-based company earns $10 million, and that money never comes back to the United States, you don't pay taxes on it."

And his litany continues: "It's a nifty deal if you're a corporation, infuriating if you're an ordinary taxpayer," he says. "Over the next ten years, tax-dodging companies are expected to cost the U.S. Treasury $6 billion—money that will have to come out of your pocket and mine."

Please pardon a slight digression here. I remember when I was delivering pizzas a few years ago to earn some extra money for my household, my manager tacked up a newspaper story on his office door about how the Internal Revenue Service was going to begin cracking down on servers and delivery drivers, rather than their employers, for not declaring their tips. I'll never forget my shock when reading that the IRS spokesman said that by not declaring our full income, we were depriving the government of money. By what stretch of the imagination, I wondered, could the federal government be considered to be "losing" money in this arrangement? After all, what if I had just stayed home?

But back to Mr. Carlson, and the "infuriating" evasions by corporate America. The only way that "tax avoidance" could possibly fall unfairly on "your pocket and mine," is if the government doesn't adequately adjust its budget to reflect a lowering of expected revenues when a corporation moves out of the country. This any third-grader could figure out. If I have just $10, and my bills are expected to exceed $10, then perhaps I am spending too much money. But let's not start talking fiscal

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responsibility to the federal government. *That* would be truly outrageous.

And speaking of fiscal responsibility, isn't it just a little outrageous that a member of the "conservative" establishment, those fellows that are always talking about government being too big and the tax burden too great, could be upset over a business venture that, faced with an oppressive tax regime, opts for a loophole? Bear in mind that "loopholes" were described by one great economist as "remaining freedoms." We should be happy they got away.

Move to Bermuda

Mr. Carlson does raise a good point that might lead the reader to conclude that he is on to the problem. He writes of the Stanley Works corporation, whose shareholders voted early in 2002 to relocate company headquarters to Bermuda. The shareholders cast their votes on the advice of CEO John Trani, who claimed that the decision would save the company $30 million in taxes and increase stock values.

What they didn't count on, however, was the chunk Uncle Sam will get in corporate gains tax when the company leaves the United States. Mr. Carlson quotes a *New York Times* calculation which found that "even if Stanley's stock price goes as high as Trani says it will, these shareholders 'will barely break even after taxes.'"

But wait. Before you can say, "Why, Tucker, I think you've got it," his next statement quickly dispels any illusion that he is actually on the right scent. "As for the government," he concludes, "it would lose $240 million in corporate income taxes from Stanley over the next eight years." The sky is indeed falling. The government might "lose" some more money.

But that is not Mr. Carlson's only gripe. He appears genuinely upset that companies would be engaging in such chicanery at a time of crisis. "All this [tax dodging]," he laments, "at a time when the United States is straining its treasury to fight a war against terrorism." And what blast of corporate America would be complete without someone to coin the perfect denunciatory slogan? "Republican Senator Chuck Grassley of Kansas calls foreign tax havens an example of 'profit over patriotism.'" Which means, of course, that the government isn't able to skim as much *geld* off of these corporations as it desires.

The fact is, if anyone bears responsibility for the endless quest on the part of corporate America to find the ultimate tax haven, it is the U.S. government and its lengthy, draconian, inconsistent, unfathomable, monstrosity of a tax code and the oppressive taxation it represents. Even if the tax code were perfect, no business should feel compelled to stay put simply out of nationalistic concerns. Corporations exist to turn a profit—they do not exist to keep the federal government in lots of tax revenue.

Much like the Wizard of Oz, who implored his visitors to "pay no attention to that man behind the curtain," so Mr. Carlson wishes to distract us from the real issue. Capital tends to go where it isn't penalized. If Mr. Carlson objects to corporations moving out of the United States, then he should be criticizing the disincentives that exist for them to stay put—especially since he so obviously recognizes that taxes *are* the underlying motive for corporate relocation. For it is obvious that corporate America, much to the disappointment of social engineers and military interventionists, is tired of being milked to quench government's endless thirst for other people's money. □

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FEE TODAY

www.FEE.org December 2002

The Miracle of the Christmas Spirit

By Edmund A. Opitz

Charles Dickens wrote his most famous story to demonstrate what happens to a wretched, miserly old man when once the Christmas spirit gets to work on him and takes over. Something happens at this time of year to make people easier to get along with. There is something about this season that releases the friendliness and good will between one man and another which most people keep under rigid control during the rest of the year. Those feelings, carefully preserved in sort of a cold storage most of the time, come forth naturally and spontaneously on certain occasions.

Christmas is chief among those occasions; but there are others. Let two men take refuge under an awning from a sudden downpour of rain and their predicament leads to a camaraderie that is no less real for being brief. Accounts of severe snowstorms contain stories which illustrate the same point; for instance, people in a stranded railroad car suddenly decide that they like each other and a real spirit of friendliness is kindled simply because they are marooned in a blizzard.

There is no law which says that people must feel friendly at Christmas; nobody is forced to display comradeship because he is trapped by a storm. It is simply that under these circumstances an ordinary quality in human beings is transformed into something higher and finer; "a good man out of the treasure of his heart bringeth forth good things." The Christmas spirit works upon the heart and mind of man, and by some strange alchemy it transmutes the base metal it finds there into a rare and precious thing. If that spirit endured for even a year, the consequences would be immense.

We speak of our own times as an age of revolution because things outside of us are changing so rapidly that we can hardly keep pace with them; but the only lasting revolution is that transformation which takes place in the hearts and minds of men.

Institutions and Men

Society might be said to have its flesh and bones. The bones are its mechanical arrangements—its institutions, its laws, charters, constitutions, manifestoes, and the like; the flesh is comparable to the kind of people who run these institutions and use these laws. It is common today to write and speak as if the kind of people we are does not matter very much, if

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only we can be very clever about altering our institutions, writing more elaborate laws, and filling our charters with high sounding phrases.

And so we emphasize the mechanical arrangements by which we live and put our trust in men who claim that all we need do is to make these more perfect until society, like a machine, will run by rote and be exempt from the human frailties from which it now suffers. There is just one thing that these planners leave out of account—the human factor. The best laid plans of men will go astray unless they are made to work by the right kind of human material.

It is told that a composer wrote a brilliant composition for the cornet. The music was technically perfect and it was good music. The trouble was that no one could play it because the composer had neglected to put in any rests where the cornetist could take breath. It seems to be in the order of nature that no man can push wind into a cornet continuously for more than a few seconds. As a brass man myself, I can attest that this is one of the shortcomings of the instrument—or of the performer—and nothing can be done about it. The composer cannot ignore these facts.

It strikes me that many of the schemes for social betterment exhibit just such a blind spot; allegedly they are written for the benefit of human beings, but in the writing the principal thing is omitted—the human factor.

* * *

The ***Reverend Edmund A. Opitz,*** *an ordained Congregational minister, served as a member of the staff of the Foundation for Economic Education from 1955 until his retirement in 1992. He is the author of more than 150 articles and reviews in a score of publications, as well as the books* Religion and Capitalism: Allies, not Enemies *(Arlington House/FEE),* Religion: Foundation of the Free Society (FEE), *and* The Libertarian Theology of Freedom *(Hallberg).*

Ed was book review editor of The Freeman: Ideas on Liberty *for many years and wrote dozens of feature articles for the magazine, including this essay, "The Miracle of the Christmas Spirit," which appeared in a longer version in our December 1956 issue.*

Many friends of FEE remember Ed's seminar lectures and the informal discussions outside the classroom. He was also an exemplary practitioner of the almost-lost art of letter writing, answering correspondents' sometimes-thorny questions with eloquence and ease.

Ed now lives in Falmouth, Massachusetts. We invite readers to send him a Christmas greeting this year:

Edmund A. Opitz
c/o FEE
30 South Broadway
Irvington-on-Hudson, NY 10533

We will send your cards and letters along to Ed.

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Ideas Set Us Free

In our time we are suffering an eclipse of the idea that each of us is a person in his own right. It is being replaced by the notion that the individual is a creature of the State, deriving his rights from the State and holding such rights as he may have at the pleasure of the State. This doctrine provides a climate tolerable to slavery, and with the majestic inevitability of cause following effect we see the return of the institution that we had thought forever dead.

When there is a deep transformation in the hearts and minds of men—meaning a new outlook, a new set of ideals, and new ideas—these things inevitably bring about some change in our social arrangements, either for good or for evil. If the outlook is sound, if the ideas are tempered by reality, then our laws and institutions will pretty well take care of themselves. On the other hand, if our outlook is half-baked, if our ideas correspond to no known reality, if we have our eyes on privilege—then we can have the best constitution and laws in the world and we will still get into trouble. One would give a great deal to know Madison's opinion of our Constitution after we have tortured it almost beyond recognition. And what is one to make of the citizens of one of the West Coast states who recently voted into law a bill to provide old-age pensions, only to find that its cost exceeds all the other items in the state's budget combined?

Laws aren't foolproof; any law can be twisted out of its original intent. Laws are creatures of men, and men will use them according to their lights. If strong inclinations run counter to a law, the inclinations will find satisfaction in extra-legal ways; the Prohibition Amendment bred the speakeasy and the bootlegger; the OPA laws brought in the black market. . . .

Peaceful Change

"Men still call for special revolutions," wrote Ibsen, "for revolutions in politics, in externals. But all that sort of thing is trumpery. It is the soul of man that must revolt." This revolution in the soul takes place without shouting or fanfare, without the breaking of heads or the destruction of property; when it occurs, it takes place quietly but with persistent resolution.

Augustine is supposed to have prayed, "Lord, make me good, but not yet." That is precisely the attitude of the average person; he puts off the determination to do something with himself until after some external event has occurred. He waits for the crowd to line up, or for the Cooperative Commonwealth to dawn, or for the Revolution, or for some other event which will give him the signal to start living the way he should. You remember the old story; it was planned at a certain moment on a given day that every person was to utter a great shout. But the moment passed and there was a great silence. Everybody had kept quiet, waiting to see how it would sound when all others shouted.

This Christmas season does something to us inside. It sets us on our feet and gives us a cue as to the way we should go. Our part is to carry on from there, to carry this spirit which comes to us at this season into the rest of the year. Then it may be said of us, as Dickens remarked of one of his characters, "It was always said of him, that he knew how to keep Christmas very well." □

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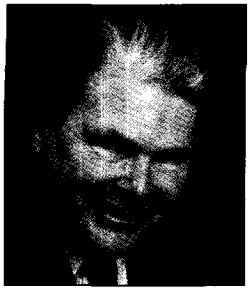
Notes from FEE

By J. Brooks Colburn



This is the 57th Christmas for FEE from its home along the Hudson River, and my first as its president. I became aware of FEE at age 14 when I came across a copy of *The Freeman* magazine—the original name for *Ideas on Liberty*—among some political literature displayed outside the auditorium of my school in California. After reading it from cover to cover, I wrote to 30 South Broadway in Irvington asking that my name be added to the mailing list.

Every month after that, for more than 20 years—through high school, college, graduate school, and the Army—I read Bastiat, Mises, Hayek, Rothbard, Leonard Read, Ed Opitz, and other thinkers who were offering non-coercive solutions to problems that everyone else seemed to address with compulsion. When I moved East, I stopped by FEE and introduced myself to Leonard, Ed, and the staff. Each year thereafter I managed to get to Irvington once or twice, usually chatting with Ed Opitz about some aspect of the freedom philosophy.

Ed's article in this issue is typical of his thoughtful, penetrating insight presented in a gentle style. He did not require exclamation points or imperatives to get his ideas across; he knew that they were powerful enough in themselves: *Change yourself for the better, and by example you will change others for the better.*

I believe that emphasis on *self*-improvement is what distinguishes FEE from other organizations supporting the freedom philosophy. As Ed reminds us, without the individual's personal commitment to the principles of mutual respect for other people and their property, a free society cannot survive—regardless of how clever a social plan we may have.

The best way to appreciate the value of those principles is not by simply reading about them—valuable as that may be—but by seeing them put into practice. Yes, there are those who do, and those who teach—but fortunately there are a few who do what they teach. Ed, Leonard, and others I met at FEE were among them. They lived what they taught by actively opposing coercive transfers of wealth even if they would have been among the beneficiaries. "It is obvious," Leonard said, "that government would not take from some and give to others were the others to reject the loot." Leonard never accepted Social Security, and several of his colleagues and associates have followed his example.

Ideas are powerful. I would not be seated at Leonard's desk now were it not for the power of the ideas he and his colleagues introduced me to long ago. But people can be powerful too. By committing ourselves to the idea that, in Ed's words, "each of us is a person in his own right," and not to any degree a creature of the state, we can each be a single, unique, powerful exemplar of the freedom philosophy we support—as Ed Opitz has been.

J. Brooks Colburn was named interim president of the Foundation for Economic Education on October 21, 2002. He was educated at Stanford University, Stanford Law School, and the University of California at Los Angeles, where he earned a doctorate in philosophy. While at UCLA he was assistant to F.A. Hayek during his tenure as a visiting professor in the philosophy department.

Dr. Colburn taught philosophy for several years at the university level, specializing in logic, philosophy of science, ethics, and aesthetics. In 1979 he began his corporate career at GE, and then joined IBM five years later, specializing in communications and negotiations. In 1999 he was asked to take over negotiation training and strategy development for IBM's largest business, Global Services. As a result of the success of his negotiation work for IBM, he left in 2002 to create Negotiation Strategists, a company that provides negotiation training and consulting to leading businesses around the world.

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IDEAS ON LIBERTY
DECEMBER 2002

The Right Morality for Capitalism

by Norman Barry

This is not a good time to defend the morality of capitalism. Even the dismal economic failure, not to mention the appalling inhumanity, of socialism did not produce a new affection for the free-exchange, property-based system. Its alleged greed-driven, anti-social ethic has never gelled with the moralism of the modern intellectual, who is more likely to be educated in sociology or English literature than economics or finance. His very unworldliness is a virtue, and his ignorance of the mainspring of human action, a ubiquitous self-interest, is a mark of moral superiority.

The most that was conceded to capitalism was the grudging admission that it worked—but at some cost to our highest moral purposes. Indeed, some apologists for the market system have agreed with this ethically unpromising verdict. In describing the development of commerce at the beginning of the eighteenth century, Bernard Mandeville, in his comic, metaphorical poem, *The Fable of the Bees*, wrote in approval of the morally debased agents that powered the social system, and noted the beneficial outcomes their egoism generated: "Each part was full of vice/ But the whole mass an earthly paradise."[1]

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Of course, when the bees "got morality" they became fractious and unproductive. This delightful paradox of private vice and public virtue that Mandeville posed was sanitized by Adam Smith, but it has remained instructive to this day. We still seem to be faced with a choice between economic success and ethical perfection. But Mandeville was exaggerating. He recognized a difference between conventional morality and the moral fervor of his times. He made a distinction between the harmful and the useful "vices," and it was the latter that he was encouraging.[2]

Of course, the latest business scandal is seized on as further example of the incompatibility of ethics and business. In the 1980s we had Michael Milken (who was persecuted by Rudolph Giuliani but was innocent) and Ivan Boesky (probably the only genuine business villain of the era), and we have had Enron, WorldCom and others in the early 21st century. What is overlooked in all this are the gross crimes and sufferings of collectivism. Yet the comparative minor failings of capitalism, exposed by a free-market press, are greeted with glee by the moralists.

There is a reason for this strange ethics. The collectivists are assumed to have the right moral *motivation*. They may have made a few mistakes (100 million deaths?) in the execution of their noble dreams, but at least everything was done for the right reasons. No paradox of virtue here. The crimes of the capitalists are not a consequence of

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the attempt to save mankind but the result of pure greed, and this is always condemnable whatever its outcomes.

So once again we have to go through a cleansing process to clean up the market and make it respectable so that its benefits are not tainted by anything so vulgar as self-interest. We are assailed on all sides by the demands for "corporate social responsibility." Capitalism is allowed to function but only so long as shareholders are relegated to just one of a great clutch "stakeholders" (any group of malcontents who can claim some vague connection with the firm), so long as individual self-interest is subordinate to the never-ending demands of the "community," and so long as messy, immoral things like takeovers and the search for shareholder value are eschewed. In other words, capitalism is okay as long as its players don't behave like proper capitalists. Those etiolated surrogates in Germany and Japan are the proper role models.

Furthermore, the critics of contemporary capitalism have cleverly confused two moral issues in today's business world: the undoubted anger that people rightly feel at the moral wrongs that we read about *and* the ethical demand that commercial players should display the kind of morality that would not be expected of ordinary people. Thus we have the "moral responsibility" of business, which goes beyond conventional morality. For example, you are not expected to take account of the needs of ethnic minorities or the community when you buy a new suit or sell a car, but socially responsible firms are expected to do so in their employment practices and investment policy.

But despite the heroic assumptions made by some adventurous (or outrageous) defenders of business, it is not in principle an immoral activity, and sensible defenders of the "greed is good" philosophy are not advocating a suspension of normal moral constraints in the business world. They are simply saying that if the individualistic talents of entrepreneurship and innovation are to be harnessed for the benefit of an anonymous public, they should not be inhibited by the need to perform extraneous and supererogatory moral duties. Business agents must honor contracts and promises, respect property rights, and treat their competitors and employees as rational agents entitled to respect: in short they must obey the law, even that designed to drain capitalist enterprise of its vitality, and respect a noncontentious *conventional* morality (not that of Oxford, Cambridge, or Harvard).

But this has nothing to do with corporate social responsibility. Indeed, in America the well-publicized display of charitable activities by executives and highly successful business agents is often a shield behind which breaches of basic and uncontroversial morality go on insouciantly. All the companies involved in the present scandals had high public moral profiles, none more so than WorldCom and its founder, Bernie Ebbers. A particularly egregious example of this comes from Dennis Kozlowski, formerly chief executive of Tyco. He donated vast amounts of Tyco money to educational charities and kept a high moral profile, yet all the time he took at least $135 million in shareholders' money for his personal consumption. His reckless management has a once-successful company in serious difficulty.

The Corporation

There is a particular target of the business moralist: the publicly quoted business corporation. The capitalist world might be just about acceptable if it were inhabited by single proprietors or partnerships (as in the professions, whose class affiliation is close to that of the moralists). But apparently the shareholder-owned firm, especially in its multinational manifestation, is allegedly immune from both competition and government regulation. The "fat cats" are thought to be free from most restraints, and their defenders are apparently under the illusion that real wealth can be created by shuffling paper around and watching numbers on a screen. We are repeatedly told that the stock market is a casino, while the rival capitalist systems of Germany and Japan are admired because they rely much less on it than do the

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Anglo-Saxon systems of Britain and America.[3] Of course, it is easy for the moralists to concentrate on the public company. It has never been held in very high esteem, even in America, and its funds, despite ultimately being the savings of ordinary people through their pension schemes and insurance policies, are easy quarries for avaricious governments.

But it is never realized by the moralists that the corporation, if it observes the law and conventional morality, is a quintessentially benign organization. People pool their assets and hire professional managers to use them effectively, for the obvious purpose of securing a return. It is a process from which almost everybody benefits. Although now governed by statute, the corporation emerged spontaneously through free action under the common law. And despite many government-inspired depredations, it is still the fiduciary duty of managers to run the organization in the interests of owners, that is, the shareholders. It is the aim of the moralists to change all this and make the "community" a beneficiary of the success of the corporation. This in itself is a deadly compliment, for it is a concession that the publicly quoted business enterprise is the most important contribution that Western capitalism has made to the production of wanted goods, to widespread employment, and to general prosperity. The strategy of the moralist is to transfer that wealth from its legitimate owners to the politically favored.

The current crises of corporate capitalism are a gift for the moralists, for they can use them as a convenient ethical shroud behind which they can proceed to bring about the downfall of capitalist enterprise. But the only genuine solutions to today's problems must come from within capitalism itself, with only minor help from legislation. Government attempts to moralize the firm will only debilitate it.

The first thing to stress about the morality of today's capitalism is that its agents must return to core moral values. They must forget about the social responsibility of business and concentrate only on those basic moral principles that govern a free society. Of course, company employees rather like the former. Working for the community and doing social good for non-owners is morally pleasing, and corporate employees are no more resistant to moral vanity (costless ethical action) than the rest of us. It is certainly easier than working for the shareholder, which is their primary legal and moral responsibility. Indeed, one of the most distressing features of modern business is the willingness of large corporations to surrender to the latest moral fad: today's company reports are replete with moral "mission statements." Of course, this is all done for self-interested reasons (having the appropriate moral image is good for the share price), but corporate owners and directors don't realize the long-term harm it will cause.

Easier to Detect

Breaches of conventional ethics are easier to detect than failure to fulfill the demands of social responsibility, which are theoretically unlimited. One example of the former came from the Enron scandal. At one point in the crisis, top managers were recommending to low-level employees that they should invest in the company's pension scheme and buy the stock when they knew that the organization was in desperate trouble. The managers themselves were unloading stock at the then-high prices. It is, of course, true that employees were not compelled to invest in Enron stock and they were always free to diversify. It is also the case that the stock price did not originally fall dramatically, but the descent was rapid enough to wipe out the value of many 401(k)s. Thus the actions of top officials, and this is not to mention their fraudulent distortion of the share price, were reprehensible by the tenets of conventional morality.

Companies like Enron and WorldCom were eventually caught, as always happens under capitalism, but there were victims before the market process could have its curative effect. The danger is that if firms do not take ameliorative action, government will impose more repressive and counterpro-

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ductive measures. Firms will have to learn through experience that proper ethical action benefits business.

The difficulty that corporate capitalism faces arises from the logic of the public company itself. It is characterized by the separation of ownership from control. Passive shareholders are normally at the mercy of active and knowledgeable managers who are likely to act in their own interests, not the shareholders'. And they are more likely to take moral risks. One prevalent example is the temptation of managers to boost the share price artificially if they are offered stock options. They are not arrangements likely to enhance either the efficiency or morality of the public company.

The main victims of the current crises, then, are shareholders. Corporations have used highly dubious, indeed fraudulent methods, to raise profits. And in America especially, the audit is in too many cases something of a sham. The stock market then ceases to be an accurate measure of a company's value, and investors are systematically and deliberately misled. It requires considerable shareholder activism to enforce right conduct on the companies they theoretically own. In recent years, the shareholder activists have often been those who do not have the interests of the company at heart. They are anti-capitalist agitators who buy a few shares in a firm and attend annual general meetings with the sole intention of diverting it from its main task. This is where the demand for the corporation's social responsibility often originates.

In addition there is the more serious "collective action" problem: normally the difference one person's efforts can make is derisory, so he has no rational incentive to make it. If shareholder pressure is to count, it must come from institutional owners, who will hold a significant amount of stock and can more easily hold management to account.

There are many areas where vigilant shareholders can encourage prudent conduct. I have already mentioned the problem of the audit, but it seems to have been forgotten that auditors are formally appointed by stockholders to look after their interests. In practice, however, auditors seem to collude with management. This is partly to do with the fact that they earn lucrative fees from consultants' contracts with the firm. That obviously creates a conflict of interest: they are less likely to be concerned about accurate auditing if they are dependent on commercial contracts with the company. But this does not require legislation to correct. It can be achieved by diligent shareholders demanding that such collusion not take place.

The same applies to excessive corporate remuneration, about which there is so much moralizing. Salaries tend to be awarded by remuneration committees that consist of personnel from other companies. There is obviously an opportunity for an alliance, unconscious or not, between executives of the various companies to exploit the shareholder.

We read of the Marconi example in Britain, where a successful firm, General Electric, left its successor organization (Marconi) nearly £2 billion in cash and a number of successful, if unglamorous, business enterprises. The executives of Marconi embarked on highly adventurous new activities, dissipated its cash pile, and burdened the company with massive debt. Its share price is now under 1 penny, and it is being reorganized under a debt-for-equity arrangement. Under the new scheme the original stockholders will get a mere 0.5 percent of the company. The executives who had so grossly mismanaged the firm walked off with massive redundancy payments and enhanced pensions. A more active shareholder movement would constantly monitor salaries to prevent such outrages, and it would not write employment contracts that reward failure. There are already signs that institutional owners are following this course.

Genuine Business Ethics

It is much more important that firms concentrate on their core activity of delivering shareholder value. They must not be seduced by the meretricious allure of corporate social

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responsibility. Genuine morality is more secure the less demanding it is. We can safely assume that attempts to moralize business personnel will fail. Human nature is unchanging, and people do not often act morally in a purely voluntary manner. As David Hume said: "[as] it is impossible to change . . . anything material in our nature, the utmost we can do is to change our circumstances and situation, and render the observance of the laws of justice our nearest interest and their violation the most remote."[4]

If the moralists are worried by the excesses of Anglo-American capitalism, a glance at its communitarian rivals should assuage their guilt. The Japanese stock market has fallen from its high point of 40,000 (as measured by the Nikkei index) in 1990 to less than 10,000 now. Among the victims were millions of Japanese housewives who gambled the family income on the market. The big players, often criminals, protected themselves against such a catastrophic fall in value. The virtuous Japanese economy is, in effect, a conspiracy of top company executives and banks against the small shareholder, who is paid a derisory dividend and excluded from all influence on the company. Germany has had its fair share of business scandals too.

Naturally, in the light of business intemperance there is always demand for government action: more laws, more regulations, and more inhibitions on the free actions of individuals in market society. There are two points here. The assumptions are that business cannot regulate itself and that the egoism of capitalism is so heinous that ordinary rules and laws are inadequate to restrain its excesses. There is a danger of overreaction. Already the familiar restraints are working. Enron and WorldCom are virtually bankrupt (the perpetrators of fraud will face ordinary criminal law), and the dot-com bubble has been punctured by natural market processes.

It would be fatal if morally inspired governments were to protect individuals from their own folly. People invest in the stock market because they want to earn more money than is obtainable from bank accounts and other "safe" investments. No capitalists complained about the extra returns from the bull market of the 1990s, so they shouldn't object to today's losses. That is capitalism—a risky but ultimately beneficial economic system. □

1. Bernard Mandeville, *The Fable of the Bees*, ed. F. B. Kaye (London: Oxford University Press, 1924 [1705]), p. 24.
2. Ibid., p. 10.
3. See Norman Barry, *Business Ethics* (London: Macmillan, 1998), chapters 3 and 4.
4. David Hume, *A Treatise on Human Nature*, book 3 (London: Fontana, 1973 [1740]), p. 22.

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IDEAS ON LIBERTY
DECEMBER 2002

Ideas and the Abolition of Slavery

The history of slavery is a subject of great interest to contemporary historians. The intense interest it evokes today is partly a consequence of one huge reality: slavery has been a feature of almost every historical epoch except for the last 200 years. So the big question is, Why and how did an institution so universal and accepted come to disappear from almost the entire world in less than a hundred years?

For many years the answer went roughly as follows: Slavery and the slave trade were accepted features of life until in the later eighteenth century a movement arose for its abolition, initially in Britain, led by figures such as William Wilberforce and Thomas Clarkson. Motivated by humanitarian concerns, the movement spread from Britain to other countries and gained a series of victories, culminating in the abolition of the slave trade in the British Empire in 1807, the abolition of slavery in the British West Indies in 1832, and the eventual extinction of slavery in the New World by 1882.

This view of abolitionism, as a humanitarian movement motivated by high ideals, was sharply criticized in a path-breaking work written in 1944. This was *Capitalism and Slavery*, by Eric Williams (who later became prime minister of Trinidad). Williams argued that the abolition of slavery owed little to humanitarian motives. It was rather a consequence of the appearance of modern capitalism, which had made the slave system unprofitable. It was self-interest and not humanitarian feelings that led people to abandon an age-old system. (He also argued that the earlier profits of the slave trade and the institutions it had created played a major part in Britain's industrial revolution; but that is a separate issue, which does not concern us here.) This view became predominant for some time, not least because it appealed to people from both ends of the traditional political spectrum, although for different reasons. Supporters of capitalism argued that this showed how it was incompatible with slavery because of simple self-interest. Capitalism's critics could use it to show how claims for human rights and liberty were merely camouflage for selfish class interests.

Williams's work was good history in terms of its method. It rested on empirical evidence and made a number of specific claims, all of which could be tested by further research. Unfortunately for Williams, later work by many historians has undermined his thesis to the point where it is not sustainable. There had always been some serious difficulties. One was the persistence and strength of slavery in places such as Brazil and the United States. If slavery had become economically unviable because of capitalism, why had it survived so long in such a clearly capitalist economy as that of the United States?

Another difficulty was the articulation of an explicitly proslavery ideology in the

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American South after the 1820s, precisely when, according to Williams, the self-interest of American plantation owners should have been leading them to support abolition. This last point led supporters of Williams's thesis into intellectual gymnastics as they sought to portray plantation owners as a "pre-capitalist" elite, despite overwhelming evidence as to their commercial-mindedness.

However the real damage to Williams's argument was done by the work of two historians, Roger Anstey and Seymour Drescher. They were able to demonstrate two things. First, slavery and the slave trade had been at their most profitable and their economic importance for the British economy had been greatest precisely *when* they became controversial, after the mid-1780s. Far from slavery's becoming less profitable and so undermining support for it as an institution, hostility had grown along with its economic viability and importance for the slave owners and traders.[1]

Second, they were able to show how anti-slavery had become a true mass movement by the later eighteenth and early nineteenth centuries, in Britain and other countries such as France. Drescher in particular showed how abolitionism was an important part of popular culture in Britain at that time, commanding support from people who had no economic interest in the matter one way or the other.

Common Basis

More recent study suggests that there *was* a connection between abolitionism and capitalism, but that this connection derived from a common intellectual basis, rather than economic self-interest. Antislavery arguments drew on ideas about the common nature of all human beings, their shared natural rights to freedom, and the immorality of unfree labor (as opposed to its inefficiency). These arguments lay behind the advocacy of both abolitionism and free-market capitalism. They found expression in forms such as the famous Wedgwood medallion, which showed a kneeling chained slave, with the slogan "Am I not a man and a brother?" Another common element was the important part played by religion, particularly evangelical Protestantism and Quakerism.[2]

All this has important implications for our own times and the way we view current politics. The discipline of Public Choice, or the economic analysis of politics, has enormously strengthened our understanding of the way politics works. However it can also lead to despair about the prospects of ever changing anything and a consequent paralysis of the will. From a Public Choice perspective, the power of rent-seeking special interests can seem so great that any attempt to overthrow the policies they generate is ultimately futile. This can produce political quietism and apathy. What we know about abolitionism suggests that this is premature.

In late eighteenth-century Europe, slave owners and traders were a relatively small, cohesive, and easily organized group. They had a strong economic interest in the continuation and extension of both colonial slavery and the slave trade. As we now know, this interest was becoming greater rather than less after 1776, with the opening up of trade in the Americas. From a simple Public Choice perspective this should have made the abolition of, first, the slave trade and, then, slavery almost impossible. Given the concentrated benefits from slavery accruing to a relatively small group, and its access to the political system, any move to abolish the institution should have been blocked.

And yet this was not what happened. Instead, abolitionists created a true mass movement. This proved effective and ultimately successful, because it was able to win the battle of ideas and fundamentally shift the terms of argument in favor of universal human liberty. □

1. Roger Anstey, *The Atlantic Slave Trade and British Abolition, 1760–1810* (Atlantic Highlands, N.J.: Humanities Press, 1975), and Seymour Drescher, *Econocide: British Slavery in the Era of Abolition* (Pittsburgh: University of Pittsburgh, 1977).

2. Howard Temperley, "Anti-Slavery as Cultural Imperialism" in Christine Bolt and Seymour Drescher, eds., *Anti-Slavery, Religion and Reform: Essays in Memory of Roger Anstey* (Hamden, Conn.: Archon Books, 1980), pp. 335–50.

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IDEAS ON LIBERTY
DECEMBER 2002

Indian Socialism Breeds Sectarianism

by Christopher Lingle

In a classic case of deflecting blame for their own shortcomings, politicians in India have identified the size of the population as the country's biggest problem. This disingenuous position was stated in a unanimous resolution issued by the Indian parliament in 1997 on the 50th anniversary of independence.

It is hard to imagine a more cynical or despicable lie. If left free from the extensive interferences of various levels of government, the energy and creativity of the Indian people could soon allow them to be among the richest on earth.

Indians are not poor because there are too many of them; they are poor because there are too many regulations. India's greatest problems arise from a political culture guided by socialist instincts, on the one hand, and an imbedded legal obligation, on the other hand.

While India's political culture reflects the beliefs of its founding fathers, there is the additional matter of the modified preamble to its constitution that specifies: "India is a sovereign, secular, socialist republic."

It was Indira Gandhi who had the words "socialist" and "secular" added in the late 1970s. At the same time, she also amended the Representation of Peoples Act to require that all recognized and registered parties must swear by this preamble. Since all parties must stand for socialism, there are no parties that espouse classical liberalism, yet there are numerous communist parties.

While one can appreciate the difficulty of abandoning ideas with such honored lineage, the fact that socialism has been widely discredited and abandoned in most places should prompt Indians to reconsider this commitment.

Despite evidence of its failure as an economic system, many socialists who carry on do so by trying to proclaim that their dogma reinforces certain civic virtues. A presumed merit of socialism is that it aims to nurture a greater sense of collective identity by suppressing the narrow self-interest of individuals. However, this aspect of socialism lies at the heart of its failure both as a political tool as well as the basis for economic policy.

Let's start with the economic failures of socialism. Most of the grand experiments have been ignominiously abandoned or recast in tortured terms such as the "third way," which defers to the importance of markets and individual incentives.

Unfortunately, it took a great deal of human suffering before socialists abandoned their mission of trying to create an economic system on the basis of collective goals. It seems that socialist ideologues are impervious to evidence that their system inspires even more human misery in the civic realm.

This is because socialism provides the

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political mechanism and legitimacy by which people identify themselves as members of groups. While it may suit the socialist agenda to create them-and-us scenarios relating to workers and capitalists, or peasants and urban dwellers, this logic is readily converted to other types of divisions. Asserting group rights over individual rights can lead to the sort of injustices associated with apartheid in South Africa or genocide in other parts of the world.

In the case of India's socialist state, competition for power has increasingly become identified with religion or ethnicity. Political parties based on religion are inevitably exclusionary and conservative. These narrow concepts of identity work against social cooperation since such political forces cannot accommodate modern notions of universalist values.

Socialism also sets the stage for populist promises to take from one group to support another. And so it is that socialist ideology provided the beginnings of a political culture that has evolved into a sectarian populism that has wrought cycles of communal violence. Populism, with its solicitations of political patronage, whether based on nationalism or some other ploy, is also open to corruption.

Twin Evils

Like its evil twin, populism, socialism creates false expectations among the poor that cannot be fulfilled and promotes other forms of divisiveness. A common assertion made by public officials is that poverty can be decreased or that social justice served by taking away from the rich or by passing laws to raise wages. However, this assertion misleads the poor into believing that their condition can and should be legislated away. In response to these signals, the poor demand to be given ever more as a right arising from their identity within a group.

By promoting the misleading idea that income and wealth redistribution can reduce poverty, socialism ignores the fact that poverty is man's default condition and it persists because of low economic growth and insufficient capital formation. As in most emerging market economies, India has too many policies that hinder private investment.

One of the lessons of the global economy is that only private initiatives can create sustainable economic growth and employment. Long-term investments by entrepreneurs are stunted when capricious actions of governments arise from a populist agenda.

Instead of listening to socialist denunciations of globalization, poverty-stricken citizens around the world should realize that their economies suffer from failures of governance. Poor policy decisions are being made within an increasingly defective "institutional infrastructure" that frustrates investors seeking evidence of growth potential.

At issue is nothing less than the role of the state. Should the Indian state be used as a mechanism to protect the freedoms and rights of individuals living under a general law? Or should the state be a vehicle for groups to gain power and use it to further their own narrow ends? It should be clear that the latter approach will lead to the destruction of India's society, while the former will allow it to survive. □

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IDEAS ON LIBERTY
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Sensible Assumptions

I'm proud of the contribution that the best economists have made to our understanding of society and to the preservation of freedom. What would our world be like today if F.A. Hayek, Milton Friedman, Ludwig von Mises, and Adam Smith had not written and lectured as they did?

These four great men, and scores of other economists through the years, have revealed the immense power of private-property markets to create wealth for everyone. They have also revealed government's inevitable misuse of resources, its stifling of creative energy, and its threat to liberty.

More than any other discipline, economics cogently explains the benefits of freedom and the dangers of government.

And yet the public does not hold economists in especially high regard. In part this fact can be blamed on the many poor economists who make predictions—about such things as the future course of interest rates, stock prices, unemployment rate, and the rate of economic growth—that no one can possibly know to be accurate.

But another, much-less-just reason for their poor reputation is the claim made by those who don't know economics that economists build their theories on absurd assumptions about human motivation and behavior.

"Well," says he who wishes to justify greater government control over the economy, "economic theories showing markets working well should not be taken seriously."

"In particular," this foe of economics and economic freedom elaborates, "economists assume that people are perfectly rational—that they have perfect knowledge, that they make decisions with unfailing wisdom, and that they care only about their own, narrow material concerns. One look at the world exposes these assumptions to be ridiculous. Therefore, we need not take seriously any analyses or conclusions that economists offer."

Let's look at two of the bedrock assumptions that all decent economists use in their work—assumptions that are often singled out for mischaracterization by those who wish to discredit economics. These assumptions are that each of us is *rational* and that each of us is *self-interested*.

What do these assumptions mean? Are they so silly that you are justified in ignoring economists? You judge.

People Are Rational

To assume that "people are rational" is to assume nothing more than that human action is characterized by the following three features:

Each of us acts purposefully. To act purposefully is to act with a goal in mind. A goal can be fixed or it can change frequently; it can be noble or depraved, ambitious or modest. Economists say very little about the content of goals. But we do recognize that almost all human action is sensibly reckoned as aiming at the achievement of some goals.

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Each of us acts to achieve some end.

Each of us learns. Years ago, "Saturday Night Live" did a skit called "The Stupid Family." It showed the father taking his seat at the breakfast table and being stung by a nail sticking up out of the seat of his chair. Surprised by the nail, he jumped up, screaming "Ouch!"—and then sat right back down on the chair and nail. He repeated this several times.

Likewise, one of the Stupid sons discovered that the milk on his cereal was sour. He spit it out, disgusted by its taste, uttering "Yuck!" He then, repeatedly, took more spoonfuls of cereal from the same bowl with sour milk.

Each of the family members repeated similar feats of stupidity. The audience roared with laughter.

This skit is funny because it shows people doing what real people do not routinely do—namely, not learning. It's not funny to sit accidentally on a nail once. But it is funny (in a slapstick way) to show a goofus sitting on the same nail repeatedly, immediately forgetting that the nail is on his chair.

In reality, people learn. Each of us makes all manner of mistakes, but we generally learn of these and attempt to correct our expectations and actions accordingly.

Each of us has transitive preferences. "Transitive preferences" is a fancy name for the following fact: If I prefer apples to bananas, and bananas to cantaloupe, then I prefer apples to cantaloupe. (For the mathematically inclined, a transitive preference is expressed this way: If A > B, and if B > C, then A > C.) Preferences can, and do, often change. But at any moment, they are transitive.

It's difficult to imagine what the world would look like if individual preferences were not transitive. Suppose that I prefer apples to bananas, bananas to cantaloupe, and cantaloupe to apples.

With this preference, I would walk into the supermarket, see a bunch of bananas beside a display of cantaloupe and say, "Oh goody, I like bananas better than cantaloupe; I'll buy the bananas." But then my eye would spy a bag of apples. "Wonderful! I prefer apples to bananas. I'll get the apples instead." But recalling the cantaloupe, I would then say to myself "Ah ha! I prefer cantaloupe to apples!" I'd put the apples back on the shelf and grab a cantaloupe—only to see the bananas that I prefer to the cantaloupe.

The point is, I'd never make a choice. I'd be wholly indecisive, unable to choose and unable to act.

When economists look at reality, we see the very same people that others see: imperfect human beings with aspirations that they seek to achieve, however imperfectly. We see human beings who err, but who learn over time. And we see human beings making choices—some wise, some foolish—and the very fact that we see choices being made is proof positive that people have preferences that are transitive.

People Are Self-Interested

The assumption of self-interest means only that each person cares more about himself, his loved ones, and his friends than he cares about strangers. This assumption does *not* mean that each person is a narrow-minded, money-grubbing miser caring only for himself and nothing for his family and friends. It doesn't even mean that people don't care at all about strangers.

Each of these assumptions about basic human motivations makes enormously good sense. In fact, each assumption might better be called an observation, for each merely reflects what we all understand to be true of reality.

Pay no attention to those who dismiss economics because of the alleged absurdity of the assumptions of rationality and self-interest. □

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BOOKS

Republic.com

by Cass Sunstein

Princeton University Press • 2001 • 202 pages • $29.95

Reviewed by Andrew Cohen

Developing technologies such as the World Wide Web and e-mail have become fixtures in our daily lives. But is the Internet consistent with human flourishing in a free society?

In *Republic.com,* Cass Sunstein, a prominent legal scholar at the University of Chicago, sometimes praises the Internet. It improves access to information, facilitates communication, enhances consumer convenience, and provides new opportunities for community development and self-expression. But he also has misgivings. The Internet, he argues, isolates us from one another. It fragments discourse, polarizes ideologies, and curtails the unwanted and unexpected encounters that shape citizens in a free and heterogeneous society. Sunstein advocates government regulation to curtail the Internet's negative effects.

Sunstein is wrong about the Internet, but interestingly so. He is wrong both because he underestimates how the Internet enhances human freedom, and because he gravely overestimates the justification and practicality of government regulation. But his views are interesting because they highlight how differing conceptions of a good society shape attitudes toward emerging technologies.

The author begins by rejecting the notion of "consumer sovereignty," which he rightly sees as motivating much praise of the Internet. With consumer sovereignty, individual preferences in the market determine private choices and, when aggregated, social outcomes. Citizens are most free when nothing hinders the choices they make alone or together with willing confederates. But Sunstein rejects the sovereign consumer's unlimited power to customize a communications universe. He believes freedom is not mere preference satisfaction but *enlightened* preference satisfaction. His alternative notion of freedom extols a "political sovereignty" where only properly enlightened preferences that survive public deliberation may determine outcomes. He hopes to curtail the supposedly invidious effects of consumer sovereignty with government programs that would ensure proper exposure to key issues and the range of reasoned opinions. The government would subsidize properly structured "deliberative domain" and information websites, and it would impose "must carry" rules on popular and partisan sites by, for instance, requiring links to appropriate alternative views.

At times it is difficult to believe that Sunstein has spent much time on the World Wide Web. The largely unregulated Web has enhanced human freedom in ways that bear emphasis. Consider that before the Internet, opportunities for communication—especially with strangers—were usually restricted to insubstantial chance encounters in the streets. The ordinary citizen had little awareness or understanding of the views of differently minded persons. Further, the dominance by a few major media outlets, combined with restricted opportunities for entry into the information market, wound up marginalizing minority views. Since communities were geographically situated, citizens had comparatively restricted opportunities for exploring alternative ways of thinking and for forming bonds with persons who shared their values.

The Internet changed all that. Our appreciation of diversity went beyond the brief blurbs allowed into mainstream media. Ethnic and ideological minorities found a voice and a forum. People had greater opportunities to form and sustain voluntary communities across vast distances. All this enhances and protects freedom. It expands individuals' opportunities to define and live considered lives of their own.

Sunstein's proposed regulations are thus philosophically unjustified. He appeals to the canard that all rights are creations of

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government, and so claims that the issue is not *whether* government should regulate, but *how*. Sunstein thus conflates institutions that protect rights with considerations that justify rights. His totalizing "political sovereignty" conception of freedom assimilates everything into a politically governed public sphere. But to borrow Sunstein's terminology, this is not consistent with our shared understandings of human liberty.

Requiring content of any media (electronic or otherwise) restricts the liberty of information providers by subjecting them to the whims of bureaucrats or a supposedly enlightened mob. What is "an appropriately wide and diverse range of options" depends on substantive value questions that free individuals best determine on their own or in voluntary cooperation with others. More worrisome still is the chilling effect any regulation has on the available information and discussion that are supposedly key components for cultivating autonomous life plans.

Sunstein's proposed regulations are also empirically suspect. Will increased customization of communication wall us off from one another? I doubt it. But this is a question that awaits the findings of social scientists. What to do in the meantime?

What sets up walls, both personally and socially, are media that must pass government muster (however "modest" the regulations may seem). Soviet citizens huddled around the day's edition of *Pravda* were getting exactly the sort of information that bureaucrats wanted them to get, and no more. But consider a report in the *New York Times* from last August 4. Individuals in closed societies such as China and Iran are increasingly getting their news from the Web. This bodes well for freedom. And it is because individuals are increasingly able to set up communications universes of their choosing that such information is both available and consumed. □

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Crypto Anarchy, Cyberstates, and Pirate Utopias

edited by Peter Ludlow

MIT Press • 2001 • 451 pages • $60.00

Reviewed by Andrew P. Morriss

This volume offers a wildly uneven array of original, revised, and reprinted writings on the broad topic of anarchy and the Internet. The 26 contributions are divided into five major sections covering: "The Sovereignty of Cyberspace," "Crypto Anarchy," "Shifting Borders," "The Emergence of Law and Governance Structures in Cyberspace," and "Utopia, Dystopia, and Pirate Utopias."

There are three reasons to read this book. The first is that it offers a wonderful window onto the evolution of thinking about the Internet. The "Crypto Anarchy" section, for example, includes Dorothy Denning's hyperbolic "The Future of Cryptography" from 1996, in which she denounces widely available crypto as unleashing a flood of child pornography and other ills; an excellent, point-by-point response to her piece by Duncan Frissell; and a new (1999) piece by Denning and a coauthor repeating the same sorts of arguments with updated hyperbole. Seeing these pieces juxtaposed should make anyone skeptical of claims that governments absolutely, positively must have access to everyone's communications just in case someone decides to do something bad.

The second reason to read the book is that it contains some marvelous documents and accounts of important events in the history of the Internet. Jennifer Mnookin's "Virtual(ly) Law" recounts some of the history of the famous LambdaMOO virtual space and its attempts to develop a legal system in cyberspace. Charles Stivale's "help manners" provides a fascinating counterpoint to some of Mnookin's factual claims. (Both, unfortunately, tend to be written for people already familiar with the issues they discuss and so a bit cryptic to outsiders.)

The third reason is that the book provides the answer to what socialists and statists

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think about the Internet. The last section on utopias and the concluding appendix, which contains an interview with Noam Chomsky, are filled with frustrated statist rantings along the lines of, "The nuclear family becomes more and more obviously a trap, a cultural sinkhole, a neurotic secret implosion of split atoms—and the obvious counter-strategy emerges spontaneously in the almost unconscious rediscovery of the more archaic and yet more post-industrial possibility of the band." There are also attacks on Thomas Jefferson for being a slave owner, corporations for being corporations, and *Wired* magazine for being written by and for white males. Pirates are praised for being multicultural democrats.

Indeed, some of the selections sound like the "anti-Wired." Long-time (but now retired) *Wired* columnist Nicholas Negroponte (head of MIT's Media Lab, which is—apparently shockingly—funded by corporations!) gets an entire chapter devoted to attacks on his columns. As an example of the caliber of these attacks (and this section of the book), Negroponte's comment that the Media Lab invents things rather than studying their moral implications is quickly linked to Hiroshima: "The 'Dammit, Jim, I'm-an-Inventor, Not-a-Social-Scientist' defense died at Hiroshima, where Robert Oppenheimer's blithe dismissal of the moral implications of his invention . . . came back to haunt the world in nightmare images of walking corpses." Well, not really. The Media Lab doesn't build bombs, it builds gizmos to exchange business cards by shaking hands. Not quite the same thing.

The illogical arguments in the antilibertarian sections of the book are all too familiar: Negroponte is an inventor (or at least manages some inventors), Oppenheimer was an inventor, therefore Negroponte has blood on his hands. Or Jefferson owned slaves, therefore everything Jefferson did was a bad idea. (That Jefferson needs to be hauled in to indict the Internet shows how desperate its opponents are.) There is no room here for arguments that Jefferson, like the rest of us, was a morally imperfect person, but nonetheless had some pretty good ideas on liberty—ideas that ultimately contributed to the abolition of slavery in this country despite his personal failings on the issue. Fortunately, most of the unintelligible nonsense is concentrated in the final section and doesn't outweigh the useful material. *Ideas on Liberty* readers will find the essays on cryptography and sovereignty more interesting and less filled with postmodern academic jargon.

In short, this is a flawed book, with far too many selections marred by jargon and fuzzy thinking. However, it also contains primary source documents and thoughtful reflections from a variety of perspectives on important issues relating to the Internet. Anyone interested in anarchy and the Internet should read at least those parts of the book. □

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Armed: New Perspectives on Gun Control

by Don B. Kates and Gary Kleck

Prometheus Books • 2001 • 363 pages • $27.00

Reviewed by Joyce Lee Malcolm

For 77 consecutive days in the fall of 1969 the *Washington Post* published editorials calling for stricter gun controls. This was something of a record, even for the *Post*, but it was, and remains, typical of a national media in which three-quarters of the newspapers and most of the periodical press vociferously support curbs on gun ownership. It is not merely media bias, however, that provoked Don B. Kates and Gary Kleck to write *Armed: New Perspectives on Gun Control*. The press is entitled to its opinions. What concerns Kates and Kleck is the fact that this bias has carried over into news coverage and distorted the information presented to the public. At the same time that the national media treat the public to intense coverage of every gun accident or shooting

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and dutifully report every study that seems to justify firearm restrictions, they routinely downplay defensive uses of firearms and scholarly investigations that fail to find a link between legally owned firearms and violence. As a result, much of the ordinary American's "conventional wisdom" about the use and abuse of guns is simply wrong when all the available evidence is considered. Kates and Kleck hope to provide that unreported component and correct misconceptions.

Consider a few examples they cite of the conventional wisdom produced by unbalanced reporting. Kates points out that the publicity given every unfortunate accident in which a small child is killed by a gun has convinced the public such tragedies are both common and increasing. In fact, in a nation with some 2 million to 2.4 million privately owned firearms, gun accidents kill only ten to 20 children under the age of five each year, less than half the number who drown in the bathtub. While even one death would be one too many if guns served no useful function, studies such as Kleck's survey of defensive uses of guns, investigations rarely reported by the media, found that up to 2.5 million Americans use guns annually to defend themselves and their children. They may be rare, but are fatal gun accidents increasing? During the 30 years from 1968 through 1997, even as the stock of civilian firearms rose by 262 percent, fatal accidents dropped by 68.9 percent.

Then there is the conventional wisdom that armed citizens are likely to kill someone by mistake. It turns out that such erroneous killings by private gun owners total about 30 a year. The police, by contrast, erroneously kill five to 11 times that number. Conventional wisdom also holds that ordinary individuals who have a gun in the house are likely to reach for it in a fit of anger and murder someone. Yet homicide studies consistently show that the great majority of murderers are not your average citizens but individuals with a long history of crime and violence.

Kates and Kleck are ideally suited to survey this complex and contentious subject. Kates is an attorney and a specialist in the constitutional and legal aspects of firearms ownership. He has closely examined the recent spate of criminological and sociological studies that have appeared in leading medical journals by physicians who frankly admit to viewing the gun as a "health hazard." Kleck, professor of criminology at the School of Criminology and Criminal Justice of Florida State University, has conducted original research into defensive gun use—a statistic the police don't bother to record—and other topics on the criminology of firearms. The long list of books and articles both men have written comprise a major contribution to "the great American firearms debate."

Armed is one of those handy and well-organized reference works that can be read straight through or consulted on virtually any aspect of its topic. It provides comprehensive coverage of the gun controversy from the issue of whether guns are useful for self-defense and the arguments for moderate as opposed to prohibitionist controls, to the profile of the typical gun owner and the latest stage in the debate over the meaning of the Second Amendment. Just as important, given the aims of its authors, Kates and Kleck have that rare ability to write jargon-free and lively prose. Their book is informative and accessible without talking down to its audience.

And here I must admit my only reservation. To achieve its authors' greater goal, this book needs to become a reference source used by the mainstream media. That does not mean the *Washington Post* needs to change its long-held opinion on gun control in the light of additional evidence—although that would be refreshing. It does mean that the media would have the materials ready at hand to offer the public a more accurate and balanced view of this crucial topic. And would do so. A copy in the hands of fair-minded reporters and editors might go a long way to correcting the present misconceptions. But are they interested? □

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Fool's Errands

by Gary T. Dempsey
with Roger W. Fontaine

Cato Institute • 2001 • 215 pages
• $19.95 hardcover; $10.95 paperback

Reviewed by George C. Leef

The destruction of the Taliban government in Afghanistan and its replacement by a new regime that is at least not certifiably lunatic has led to discussions on the role that the United States should play in that country's future. Some advocate a big "nation-building" program designed to create a model democracy. *Fool's Errands,* however, counsels that "nation-building" has in the past been a costly failure that we should stay away from in Afghanistan and everywhere else.

Authors Gary Dempsey, a foreign-policy analyst with the Cato Institute, and Roger Fontaine, who served on the National Security Council under President Reagan, here survey the history of U.S. interventions in foreign nations for the purpose of transforming them—to end violence, replace despicable rulers, promote democracy, and generally to make life less Hobbesian for unfortunate people. Most of the book is devoted to analysis of our most recent nation-building escapades: Somalia, Haiti, Bosnia, and Kosovo. In each case, we learn much about the futility and even counterproductivity of our efforts that strongly contradict the official optimism spun out by the Clinton administration.

The recent movie *Black Hawk Down* reminded Americans about our unhappy adventure in Somalia in 1992–93, which began in the first Bush administration. Dempsey and Fontaine fill in many details of that fiasco that were downplayed or entirely ignored by the media and Clinton administration spinmeisters. Although there certainly was starvation on a large scale in Somalia in 1992, the authors note that the worst of it had passed by the time of the nation-building operation, and the free food shipments were devastating to the efforts of Somali farmers. Moreover, the U.N. and American peacekeeping force, far from reducing the level of violence, actually raised it. The authors write, "Many Somalis . . . came to view U.N. peacekeepers as just another clan, with its own set of enemies and allies, fighting to get its way. The round of warfare that broke out between UNOSOM II and [Somali warlord Mohamed Farah] Aideed would last for four months and produce thousands of casualties."

Most enlightening of all is the authors' postscript on Somalia, "By 1997, two and a half years after the last U.S. troops departed, commerce was booming in Somalia, the markets were full, and people who had previously eked out their existence with the barrel of a gun had gone into business importing, exporting and transporting goods." Peace—at least as much as the Somalis had ever known—had returned, despite our useless meddling.

Haiti was the next of President Clinton's nation-building exercises. When a military coup deposed the elected president, Jean Bertrand Aristide (elections in Haiti are anything but reliable expressions of popular will), Clinton pressured the Haitian military to give up power to the supposed democrat. Through economic sanctions that managed to depress the already low standard of living to abysmal levels, the U.S. government got the ruler it wanted. Once Aristide was in power, U.S. troops were sent in to help keep him there and support a variety of structural changes Washington wanted to make. But it was all for naught. The authors explain that, "Few, if any, in the Haitian government favor a working market economy or even understand what the term means, and no political culture prevails with widespread acceptance of the habits, beliefs, and values that sustain . . . democratic institutions." Aristide rules Haiti with an iron hand, and progress is imperceptible.

Bosnia and Kosovo have been more of the same—costly, feel-good political grandstanding that changes nothing. An anecdote will convey the absurdity of it all. A top nation-building official announced a program designed to reduce ethnic hatreds in Bosnia. He was going to have 300,000

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T-shirts printed up with the new, Western-imposed flag of Bosnia and see that they were distributed to a cross-section of Bosnian children. There is no evidence that children of the rival Bosnian groups are being won over to the ideas of peace and democracy by the wearing of T-shirts. There is, however, evidence that many Bosnian adults are coming to depend on the inflow of American aid. Nation-building, it turns out, has a lot in common with domestic welfare schemes.

Nothing in the U.S. Constitution authorizes the president or Congress to engage in foreign nation-building. This timely book shows how wise the Founders were in trying to limit the federal government to just a few necessary domestic tasks. Transform other nations? Forget about it. □

George Leef is book review editor of Ideas on Liberty.

Preference Pollution: How Markets Create the Desires We Dislike

by David George

University of Michigan Press • 2001 • 184 pages • $49.50

Reviewed by Gary M. Galles

David George, professor of economics at LaSalle University, wishes to tar markets for what he sees as adverse social trends. To put the blame where he wants, he begins by asserting a "retreat in governmental efforts to alter market outcomes." The, truth, however, is that far from markets squeezing out government control, they are increasingly distorted or displaced by government intervention. Despite all the talk about scaling back government regulation and redistribution, there has been very little of it, while new laws, regulations, and taxes are added continuously.

George's overreaching for his premise is clear from his meager supporting references. One is from a book about what politicians say, which ignores the gulf between what they say and what they do. Another cites President Clinton's 1998 Economic Report of the President stating that he was "committed to reducing the burden of government regulation" as further proof. He even credits libertarians' "strong influence on traditional conservatives and traditional liberals alike" for rapidly growing reliance on markets—surely a surprise to libertarians.

The core of the book, a twist on the long-since-refuted argument in John Kenneth Galbraith's 1958 *The Affluent Society*, is no more compelling.

Galbraith claimed that marketing created artificial consumer wants (termed the "dependence effect"), so that the market system should not be given credit for its superiority in satisfying those "frivolous" wants. However, that argument was decimated by Hayek's 1961 article "The Non-Sequitur of the 'Dependence' Effect" (which George cites only once, without discussion). Hayek pointed out that all human desires beyond the most primitive are culturally influenced, so nothing about marketing renders the wants it influences unworthy of satisfaction. Further, Galbraith's argument implied that people's tastes for art, music, and literature would not merit satisfying either, being similarly influenced. Finally, Hayek pointed to the advantages of private-sector advertisers' competing for consumer patronage versus the alternative—government coercion.

George's book attempts to rescue Galbraith's antimarket attack from Hayek's demolition. In particular, he tries to resurrect the claim that the preferences marketing creates are objectionable, so that markets produce socially inefficient results. He does this by using what he calls "higher-order" preferences, which he claims markets give insufficient attention to, resulting in market failure.

Higher-order preferences are preferences about your preferences. For example, while your preference now may be a hot dog rather than something healthier, you wish you preferred the healthier food to the hot dog. But that means marketing efforts that increase the value you place on, and hence your purchases of, hot dogs (an "unpreferred preference") impose a cost on you by

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moving you away from the preferences you wish you had. Further, George asserts, that cost will not be reflected in market choices, because sellers need not compensate consumers for any such change in preferences. As a result, he morphs Galbraith's criticism of markets for "frivolous" taste creation into a criticism of markets for paying insufficient attention to our supposed desires to change our preferences.

There are many holes in George's argument. Even if people had preferences about their preferences, that would not cause a market failure. Buyers would include the value of any movement away from their preferred preferences as one of the costs in making a choice, and any movement toward them as one of the benefits. Therefore, it would be reflected in their market choices.

George also recognizes the rapid growth of markets explicitly devoted to taste changing (for example, diet centers). But rather than recognizing that it severely undercuts his argument, he claims it just proves the existence of "market failure in preference production in the economy at large." In other words, that some specialize in changing tastes proves a market failure in changing tastes. One would expect an economist to be less willfully blind to the logic of specialization according to comparative advantage.

After all this, George puts forward no specific solutions to the market failure he imagines. He says that "collective action is the only possible solution," but if he were to spell out the details of any imagined government "solution," the problems and contradictions would be so obvious that no one would "buy" what he had to say.

While George's book is hard to take seriously, his argument could be recast as an endorsement of markets over government action. Let's say that people would generally prefer to be more ethical. They wish they didn't want to steal. Market systems, by preventing theft, move people closer to that ideal. But government makes stealing so tempting, it attracts people into theft via politics, moving them away from how they wish to be. Would George conclude that we need to whittle the state back to the libertarian ideal so that it doesn't interfere with our "higher order preferences"? □

Gary Galles is a professor of economics at Pepperdine University.

Frontiers of Legal Theory

by Richard A. Posner

Harvard University Press • 2001 • 453 pages • $35.00

Reviewed by Donald J. Boudreaux

I am one of Judge Richard Posner's most sincere and enthusiastic admirers. Not only am I, like everyone who knows of him, in awe of his remarkable rate of scholarly output, I also deeply admire the content of his scholarship. He is one of the most creative and engaging scholars of the past century.

Frontiers of Legal Theory is a collection of 14 of Posner's articles and talks, all of which are published separately elsewhere. As a result, only two general threads connect the essays into a single book. One is described by the book's title—but then, nearly everything that Posner writes is on the frontiers of legal theory. For more than 30 years he has been the most intrepid and creative advocate of examining, and molding, law with Chicago-style economics. From antitrust and utility regulation to literature to the history of ideas to the economics of allowing birth mothers to sell their parental rights in their infant children to the Clinton sex scandal, Posner's fascinating mind has touched almost every conceivable issue in the social sciences and shown how economics can illuminate them.

The second thread is Posner's long-time insistence that law be understood and crafted pragmatically. He sensibly rejects the idea that law does or should reflect a morality that transcends human reality, as well as the opposite idea that law is nothing more than the imposition by the powerful of their greedy will on the weak. Whether his pragmatic, economics-based understanding of law is the best alternative to these (and

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other) notions of law is a question that no review of this size can hope to answer.

Having read nearly all of Posner's books, I must report a regular occurrence. When reading him, I often think to myself, "What?! That can't be right." But invariably, as I read on, I discover that his arguments almost always convince me. And even when I remain unconvinced, I find that I've learned a surprising amount by taking him seriously.

What do I find in the book reviewed here? Too many interesting things to evaluate in a short space. Posner here speculates about the influence of Jeremy Bentham on the law-and-economics movement. He explores the markets for speech, for history, for social norms, and for scholarly output. He illuminates the law and economics of possession, of testimony, of emotions, of forensic evidence, and of judicial performance. This range is indeed wide.

To get a sense of Posner's thinking, consider this sample of points made in this book: It makes good economic sense to protect flag burning under the First Amendment because "The force of the gesture is greatly weakened if . . . the person cannot be punished for burning the flag. The cheaper the talk is, the less credible it is; toleration keeps it cheap."

"By insisting in the name of the Constitution that public schools be entirely secular, the courts increase the demand for the services of (private) religious institutions, and by doing so strengthen religion. What social conservatives denounce as the antireligious character of the Supreme Court's religion decisions may actually be one of the reasons that Americans are more religious than most of the populations of other modern nations."

In defending the Anglo-American jury system (against the supposedly better inquisitorial system), Posner says, "The very fact that the American jury trial facilitates public evaluation—that the mistakes of the system are harder to bury—guarantees that the system will look less efficient than one that operates behind a veil."

Posner's book bulges with insightful observations. But it is not without flaws. One minor one is inconsistency with some of his other work. In arguing that academics serving as expert witnesses are generally reliable, Posner says that they are kept from acting carelessly or dishonestly by their desire to protect their reputations. But in another of his books, *Public Intellectuals: A Study of Decline*, Posner argues that academics are surprisingly unreliable sources of knowledge, in large part because they have the security of tenure, diminishing their accountability for what they say.

The larger flaw is that Posner is too much of a legal positivist. As I read Posner and am awed by his brilliance, I'm simultaneously troubled by his treatment of law enforced by a sovereign power as superior to law that grows organically and spontaneously. Posner is aware that law is not exclusively the product of the sovereign's coercive powers, but he doesn't (in my view) take seriously enough the promise of polycentric law for advanced societies. Polycentric law is what scholars such as Randy Barnett, Bruce Benson, and David Friedman recognize as growing out of the competition of decentralized legal jurisdictions.

Despite these shortcomings, this book pays enormous dividends to careful readers. □

Donald Boudreaux is chairman of the economics department of George Mason University, former president of FEE, and monthly columnist for Ideas on Liberty.

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IDEAS ON LIBERTY
DECEMBER 2002

Widening Route 6

I really shouldn't tell you this, but Cape Cod is a very beautiful place. I shouldn't mention its beaches with their towering sand dunes. I shouldn't mention the golden eagle I saw soaring over the marsh near the cottage where we stayed on vacation. I shouldn't mention the charm of the Cape Cod baseball league, where college players try to show major league scouts they can hit with a wooden bat and where the fans get in for free and the dogs and toddlers are unleashed.

I shouldn't mention all this because it might encourage a bunch of you to come to Cape Cod when I'm there. That would drive up the cost of the rent I pay. And it would make the traffic problem on Cape Cod worse than it already is, hard as that is to imagine for those of us who already know the place.

For those of you who don't know the Cape, there's basically only one road, Route 6, that runs the length of its arm-shaped peninsula. If you want to get to Provincetown at the fingertip, or Chatham at the elbow or most of the points in between, you've got to get on Route 6. If you're in Truro and it's raining and you want to do something with the kiddies in Orleans, you've got to get on Route 6. And if you do this or anything else on Route 6, you're doing it with all the other folks trying to do the same thing or anything else of consequence that involves a car.

Oh to be a golden eagle and soar above it all. Or a gray seal bobbing freely in the surf. Or even a pilot whale. (But a smart one. Not one that beaches itself and tries to find Route 6.)

Problem is, none of those solutions can carry the kids and luggage along. So it's get in the car, stop and go on weekends, in the rain and sometimes even on a sunny Wednesday. On a rainy weekend, it's mostly stop.

What's to be done? The obvious solution is simple enough—widen Route 6. Yet there doesn't seem to be much interest in widening Route 6. Or as one recent study of Cape Cod development put it: "Options for significantly increasing Route 6's capacity involve serious environmental and community character decisions."

The Cape is a somewhat fragile place. But I wonder if the real reason for the lack of interest in widening Route 6 has a lot more to do with the community-character issue than it has to do with environmental consciousness.

Consider an experiment. Let's double the number of lanes on Route 6. Let's assume there's no environmental impact. And let's make the ridiculous assumption that we widen Route 6 by snapping our fingers rather than doing what it would really take—the ruining of two or three summers of traffic due to construction.

Who would benefit from a wider Route 6 versus a narrower one? The answer would

Russell Roberts (roberts@wc.wustl.edu) is the John M. Olin Senior Fellow at the Weidenbaum Center on the Economy, Government, and Public Policy at Washington University in St. Louis. His new book is The Invisible Heart: An Economic Romance *(MIT Press).*

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seem to be obvious. With a wider Route 6, traffic congestion will ease. The winners will be those who visit the Cape and would have sat in traffic using the current version of the road.

Yet, my guess is that most people on the Cape would disagree. And I think they're right to disagree. Because I think a wider Route 6 would actually punish those who would visit Cape Cod and even some of the permanent residents.

How can that be? Start by remembering that Cape Cod isn't the only place in the northeast with sand. Cape Cod draws people from New York and Boston and Philadelphia and even a family or two from St. Louis. Alternative destinations include the Hamptons and the Jersey Shore and the Maryland Shore and Gloucester and so on.

If the Hamptons get less attractive because of pollution or fashion or for whatever reason, a few more people are going to head to Cape Cod. And if Cape Cod gets more attractive because it's easier to navigate the Cape via car, then more people are going to head to Cape Cod.

When people choose between vacation spots, they look at all the costs and benefits and choose according to their tastes. Traffic congestion is one of the prices you pay to visit the Cape. And if Route 6 gets wider, that lowers the price and increases the number of people that want to vacation on the Cape. As more people visit the Cape, Route 6 will start to get congested again.

And therein lies the essential element of the political support (or lack thereof) for widening the road. Route 6 may end up a little less congested after it's been widened. But it will still be congested. And everything else is going to be dramatically *more* congested, particularly the beaches and the side roads. And unpredictable bottlenecks such as accidents and rain will have even less pleasant consequences than they do now.

Higher Rents

On the plus side for generating political support for a wider Route 6, property owners will be able to charge higher rents as a wider Route 6 will lead to more demand for scarce beachfront and non-beachfront property. The political problem is that those owners often vacation on the Cape during those weeks when they're not renting out their property. True, they'll get a higher rent if Route 6 is widened, but they'll also have a less pleasant time getting around the rest of the Cape when they're taking their vacations. That reduces the value to them of a wider Route 6.

In the real world, it will take a lot of time to widen Route 6. So even those who might see a net gain have to put up against it the hassle of the construction costs.

Some might argue that the easy way to fix all this is to make Route 6 a toll road, either now or after it's widened. By adding a monetary price on top of the time price, congestion can be eliminated under either scenario and the world will be a better place. But that solution is even less attractive politically. The toll would be paid by the users of the road, so they'd be worse off again, even though there would be a reduction in congestion.

So while widening Route 6 may have some appeal, ultimately, that appeal is greatly reduced by the realization that the net impact for many will be negative. Until we all get wings or fins, getting up and down the Cape will be a nuisance for a long, long, time. □

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IDEAS ON LIBERTY
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Prepared by Beth A. Hoffman and Mary Ann Murphy of the staff of Ideas on Liberty.

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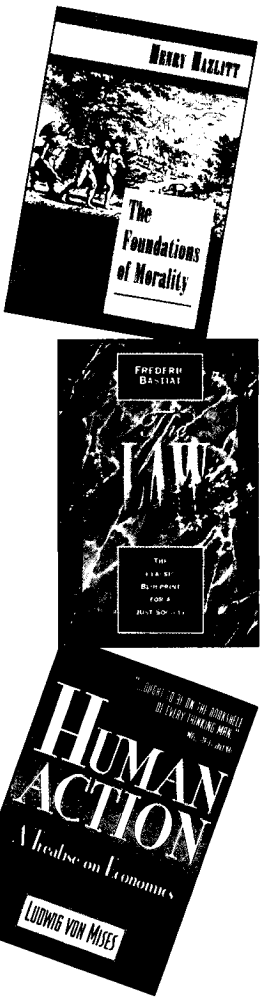

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Marley was dead, to begin with. There is no doubt whatever about that. The register of his burial was signed by the clergyman, the clerk, the undertaker, and the chief mourner. Scrooge signed it. And Scrooge's name was good upon 'Change, for anything he chose to put his hand to.

CHARLES DICKENS (1812-1870), A *Christmas Carol*, 1843

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